

A SURE GUIDE

FOR HIS MAJESTIES

Justices of Peace:

PLAINLY SHEWING

Their Office, Duty, and

Power, and the Duties of the several Officers of the Counties, Hundreds, and Parishes, (*viz.*) Sheriffs, County-Treasurers, Bridewell-Masters, Constables, Overseers of the Poor, Surveyors of the High-ways, and Church-wardens, &c. according to the known Laws of the Land, now extant.

With the Heads of the Statutes, concerning the Doctrine and Cannons of the Church of England.

Methodically digested into 54. Chapters;
By *W. Shephard*, Esquire.

L O N D O N,

Printed by *John Streater*, for *Henry Twissford*, at his Shop in Vine-Court, *Middle Temple*, and *Tymothy Twissford*, at the Inner-Temple-Gate, near Fleet-street, 1663.

A SURE GUIDE
for His Majesties
IUSTICE of PEACE



London Printed for Henry Twyford in Vine Court Middle Temple. 1663



3
To the Right Honourable, and
Worshipful, the Justices of
Peace, throughout the
Kingdom of England.

GENTLEMEN,

YOU may perhaps at first view, judge
this Piece of the *Justice of Peace's Office* su-
perfluous, after so many (and two of mine
own) on the same Subject. But give me leave
to tell you, That all the former helps herein
(as the Case now is, by reason of the alterati-
on of times and Laws) are deficient, and will
frustrate your expectations, if too much confi-
ded in. And therefore, if you shall but vouch-
safe to give it admittance, and attendance into
your Service, for which it is prepared, to sus-
pend your Judgment upon it, till you have seen
what it is, and to vouchsafe it your favourable
Protection; This is all that is desired, by

Your most humble Servant,

W. SHEPHARD.



To the READER.

Courteous and Judicious Reader,

You shall have in this Piece, a third *Surveigh* of the Office of the Justice of Peace: which the change of Times, Repeal of old, and addition of new Laws have rendred necessary. The former *Guids* having with age lost part of their sight, they may now misguid those that follow them. A third part of the work (being about matters of Religion as it refers to the justice of Peace Office, or may be of much use to him to know) is altogether new, and of a Subject in which no man hath yet dipt his Pen. In the rest, you will find many alterations and additions. And the whole put into a new method, and more commodious dresse than before. I have as much as may be declined vain Repetitions, and upon the whole (I am bold to say) left out nothing of consequence or weight, for a Justice of Peace to know, in and for the due execution of his Office. Some other things we have added of great use, and at this time very needful to be known, and not altogether impertinent to our Subject matter in hand. As the Heads of the many Statutes wherein the Justices of Peace have a power given unto them, the Doctrines and Canons of the Church, and some other things. Our Method in the work you may perceive is,

i. To

To the Reader.

1. To set down carefully the offence. 2. To set down the punishment. 3. And then the way by which it is to be done. And what the Justice of Peace *Ex officio* hath to do therein, either within, or without his Sessions of the Peace. I have herein also given a Summary, or touch of the Duties of some other Officers of the County, Hundreds, and Parishes, as Sheriffs, County-Treasurers, Bridewell-Masters, Constables, Overseers of the Poor, Surveyors of the High-ways, Church-wardens, and the like, (which by the Table may be found) to the end, that the Justice of Peace (being to oversee, and order them, and to punish their neglects in their Office) may the better understand his work herein. And now, that you may the better improve all that I have done herein to your most advantage, let me entreat you to read these following Advises.

1. That where we say one Justice of Peace may do a thing, we intend that two or more Justices may do the same thing. And where we say two Justices may do a thing, we intend that three, or more, may do the same thing. 2. That where we say a thing is to be done by two or more Justices, there we intend, that the thing may not be done by fewer Justices than we name. 3. That where we say the thing must, or may be done by two Justices *Quorum unus*, there it may not be done by other Justices; one of them must

To the Reader.

be of the Quorum. But where we say one or two Justices may do a thing, and do not say Quorum unus, thereby we intend, that any Justices, of the Quorum, or not of the Quorum, may do it. 4. That where we say, the Conviction is to be by the Confession of the party, or by Confession onely; by this we intend the Confession of the party offending; where we say the Conviction must be by view; thereby we intend the view or sight of the Justice himself. And where we say, it must be by proof of witness, we do not intend witnesses upon Oath, unless we do so express it. 5. That where we speak of a Warrant that the Justice of Peace is to make, and say not what kind of Warrant, or to whom to be directed, hereby we intend a Warrant in writing, under the Hand and Seal of the Justice, directed to the Officer of the place. And where we say the Warrant is to be sent to the Constable and no more, we intend the Constable of the place where the offender dwells. 6. Where we speak of Justices, and say no more, we always intend Justices of Peace. 7. That where we speak of Sessions, and say no more we always intend the general Quarter-Sessions, and none other. 8. That where we say, Sale of Goods rendring, &c. by this we intend, that the Officer is to prize and sell the Goods distrained, and keep up the money forfeited, and return the overplus to the owner of the Distress. 9. That where we say levied by his (or their) Warrant, we do intend the Warrant
of

To the Reader.

of the Justice, or Justices. 10. That where we say, That the forfeiture shall go to the use of the poor, &c. and say not what poor; we intend the poor of the place, where the offence is committed. 11. That where we say, that an offender is to be punished, to be convicted, or the penalty levied, or the Defendant disabled, or the like, (as before) or as in the last; by this we intend, that the proceeding against the offender in this offence, is to be directed by the proceeding in the offence which went last before it.

12. That where we say the Justices, where &c. or the poor where &c. we intend, the Justices of the County, or the poor of the place, where the offence is committed. But where we say, the Justices, or the poor, where, or where; by this generally we intend the Case to be such, that the Warrant must be penned and directed according to the Act, which is sometimes meant of the Justices of the County, and poor of the place where the offender doth live, or is first apprehended; and sometimes intended of the Justices of the County, and poor of the place where the offender doth live, or offence is done. In this Case the Statute must be looked into. 13. That where we say in the Margent (in the Sessions) there all the Justices work about the thing, is to be done in the Sessions. Where we say (out of the Sessions, there it is all to be, or may be done without the Sessions. Where we say (in and out, or (within and without) there some of it is to be done

To the Reader.

*in, and some of it without the Sessions. where we say
[in or out] there it is doubtful where it is to be done;
but it may be done in, or out of Sessions. And
if your Candor will now extenuate the faults both of
the Copy and Print, and accept of my endeavour to
serve my Generation, I shall think my Labours for
the Publique well bestowed; and be still.*

Yours,

W. SHEPARD.

CHAP. I.



*For
Gla
ing
just*



A GUIDE

FOR A
JUSTICE OF PEACE.

CHAP. I.

Of Justices in general ; And of the several kinds of Justices.

SECT. I.

Of Justices in general ; And of Justices of Peace.



Justice, in *Latine*, *Justiciarius*, Of Justices in
signifieth one that is deputed general ; and the
by the King, to do right by general sort of
way of Judgment : And he is Justices in Eng-
called a Justice, not *Judex*, land.
from the ancient *Latine* word

Justitia, (whence *Justiciarius*, as appears by
Glanvil his 2. Chap. 6.) to admonish him of be-
ing not onely *justus*, just in his Judgment ; but
justitia ipsa, in the Abstract. Another reason,

B why

The Office of

Deputy.

why they may be called, *Justiciarii & non Judices*, is, because they have their Authority by Deputation, as Delegates to the King, and not *jure Magistratus*; and therefore they cannot depute others in their stead any of them, but the Justice in Eire of the Forest, who hath that liberty given him, by Statute 32 H. 8. Chap. 35.

Lord Chief Justice of the King's Bench.

Justices are in England of divers sorts, 1. *Justiciarii de Banco Regis*; the chief of which, is a Lord by his Office, and is called, *Capitalis Justiciarius Anglia*. And his Office is especially, to hear and determine Pleas of the Crown, that is, all Offences committed against the Crown, Peace, and Dignity of the King; as Treasons, Felonies, &c. This Justice hath no Patent under the Broad Seal, but is made by Writ. The Court wherein these Justices sit, is called the *King's Bench*; because the King (the first and Chief Justice of all) did antiently sit as Judge there, in his own person; and the Court was moveable, as the King did move.

Lord Chief Justice of the Common-Pleas.

2. *Justiciarii communium placitorum*, the chief of which is called a Lord by his Office; and these Justices did originally hear and determine all Civil Causes between common persons, as well real as personal. Of these Courts, and the Jurisdiction thereof, see *Crompton* at large, 9 H. 3. 11.

Justice of the Forest.

3. *Justiciarii Forreſta*, The Chief of which is called Lord by Office, and he is to hear and determine all offences within the King's Forest, committed against Vert and Venison. Of these, there were two: The one of which, had jurisdiction of all the Forests on this side *Trent*; And the other, of all beyond it *Manwood*, of Forest Laws.

4. Ju



4 *Justiciarii ad Capiendas Assisas*, to take Justice of Assize.

5 *Justiciarii ad audiendum & terminandum*, or, of *Oyer and Terminer*, antiently made upon occasion of any great Assembly, Insurrection, &c. Justice of Oyer and Terminer.

6 *Justiciarii Itinerantes*, Or, in *Eyre, Iter*. Justice in Eyre. Instituted by H. 2. as in *Cambden's Britannia*, pag. 104.

7 *Justiciarii ad Gaolas deliberandas*; Or, of Gaol-delivery. Justice of Gaol-Delivery.

8 There were also Justices of Labourers: Of which, see 21 Ed. 3.1.

9 *Justiciarii*, Justices of *Nisi Prius*; so called from the Clause of Adjournment, used in the *Common-Pleas*, *Nisi Prius Justiciarii venerint ad capiendas Assisas*. Between whom, and the Justices of Assize, *Crompton* maketh this difference: The Justices of Assize have power to give Judgment in a Cause; but Justices of *Nisi Prius*, are onely to take the Verdict; but rather for this; that Justices of *Nisi Prius* have to deal in causes personal as well as real; whereas Justices of Assize, in a strict acception, deal onely with possessory Writs, called Assizes. And although the Justices of Assize, Gaol-delivery, of *Eir*, and *Oyer and Terminer*, did differ; yet now they are the same, though by several Commissions. For those, who by one phrase of speech, are called Justices of the Circuit, and twice every year, pass by two and two through all *England*, have one Commission to take Assizes; another to deliver Gaols; another of *Oyer and Terminer*. For all these, see 8 R. 2. c. 2. 33 H. 8. c. 24. And then there are

The Office of

Iusticiarii Pacis, Justices of the Peace. *Bract. lib. 3. Tract. 2.* Stamford, Pleas of the Crown, *Cowel's Interpretation of words, iii.* Justice.

SECT. II.

Of Justices of Peace; and how made.

Justices of the
Peace; What?

Justices of the
Quorum.

Iusticiarii ad Pacem, Justices of the Peace; or, *Custodes Pacis*, Keepers of the Peace. These Officers are come in the room of the ancient Conservators of the Peace, and are Officers of the County where they dwell, appointed by the King's Commission, to attend the Peace thereof; they were anciently called Guardians of the Peace, till 36 Ed. 3. at which time, they were first called Justices. And amongst these Justices, there are some of them (for some special respect) said to be made of the *Quorum*; without the presence or assent of some of which, some important business of the Office may not be dispatched. And they are called Justices of the *Quorum*, from these words in the Commission; *Quorum vos A, B, C, &c. unum esse volumus*, for the special trust in them reposed. These Justices, none but the King may make. And of those that are made and chosen to the Office, there ought to be in every County, at least, one Lord; and the rest are to be made up of the most sufficient, worthy, and good and lawful Knights, Esquires, and Gentlemen of the Countrey; and, amongst them, some that are learned in the Law. And anciently, none that had under 20 l. a year in Land, except he had been a Lawyer, ought to have been

been a Justice of Peace. But if any men be made Justices of Peace, by the King's Commission, albeit they be not so qualified; yet are they not by this disabled for the Office, but are Justices of the Peace, 27 H. 8. 25. 1 Ed. 3. 16. 18 Ed. 3. 2. 34 Ed. 3. 1. 13 R. 2. 7 17 R. 2. 10. 2 H. 5. 1. 18 H. 6. 7. But no Sheriff may be a Justice, for that year he is Sheriff in the same County, wherein he serves as Sheriff, 1 Ma. 8. See Cook 2. Part Inst. 171. Sheriffs.

For the Justices in *Chester and Wales*, see Wales.
27 H. 8. 5. 32 H. 8. 43. 33 H. 8. 13. 34 H. 8. 26.

And for the County Palatine of *Lancaster*, Lancaster.
see 27 H. 8. 24.

And for the Oaths, the Justice is to take, see Oath of Justices.
13 R. 2. 7. 1 Eliz. 1.

Justices of Peace within Liberties, be such in Cities and Corporate Towns, as those others be of the County; and their Authoritie is in most things all one, within their several Precincts, 27 H. 8. 25. Justices of Liberties.

Our business now is to lay open the Office of this Justice of Peace. And so we must now consider of him as the King's Deputy; and having a two-fold Jurisdiction, or a Jurisdiction in things of a two-fold nature: The one, in Ecclesiastical, or matters of Religion: The other, Secular or Civil. We shall begin with the first, and therein shew how the Law, in reference to this Office, stands at this day; and, by the way, how the Canons of the Church be in relation to the same thing, and make an end with the other. And set forth in both, what the Justice of Peace, *Ex Officio*, by his Office, and the duty

ty of his place, hath to do, or may do therein, either in, or out of the publique Sessions of the Peace apart, or in both together.

SECT. III.

A Summary of all the Powers of the Justice of Peace; and what he may, and ought by his Office to do, within, or without the Session; either by the Common-Law, or by the Statute-Law.

NUMB. I.

THE Common-Law, and Statute-Law together, have given to the Justices of Peace, by virtue of their Office, a very large Power, both in Spiritual, and in Secular things. And this Power is some of it to be exercised, and executed within, and some of it without, and some of it both within and without the Sessions. So they are to hear, determine, and punish (as to Spirituals) such offences and offenders as these. Such as maintain the Pope's Authority against the King's Supremacy over the Church, by 5 Eliz. 1. 23 Eliz. 1. 3 Jac. 4.

Pope's Supremacy.

Popish Books, Images, Bulls, &c.

Such as bring into England, or vent, or take any Popish Books, *Agnus Dei*, Crosses, Pictures, or Bulls of Absolution, by 13 Eliz. 2.

Mass.

Such as shall say, hear, or be present at Mass; by 23 Eliz. 1.

Jesuits & Priests.

Such as are Jesuits, and Seminary Priests, and those that harbour them; by 27 Eliz. 2.

Common-Prayer.

Such as do not use, or abuse the Book of Common-Prayer; by 23 Eliz. 2. Or the Rites

7. El. 2.

Rites and Ceremonies appointed to be used; *Ceremonies.*

by 1 *Ed.* 6. 7. 2 and 3 *Ed.* 6. 1. 1 *Eliz.* 2.

Such as refuse the Oath of Supremacy and Allegiance; by 1 *Eliz.* 1. 5 *Eliz.* 1. *Oath of Supremacy and Allegiance.*

Such as refuse to come to Church for a moneth or more, and perswade others not to come to Church, and some other offences about this; by 5 and 6 *Ed.* 6. 1. 23 *Eliz.* 1. 29 *Eliz.* 6. 1 *Eliz.* 1. 5 *Eliz.* 1. 13 *Eliz.* 2. *Coming to Church.*

Such as do not use, abuse, or speak against the Sacrament of the Lord's Supper; by 1 *Ed.* 6. 1. 5 and 6 *Ed.* 6. 1. 1 *Eliz.* 2. 3 *Jac.* 4. *Sacrament.*

Such as are Quakers, and use Conventicles, and forbidden Meetings for holy use; by 14 *Car.* 2. *Conventicles.*

Some offenders, about Holy-days, and Fish-days; by 2 and *Ed.* 6. 19. 27 *H.* 6. 5. *Sabbath-days, and Holy-days.*

Some offenders about Churches and Church-yards; by 5 and 6 *Ed.* 6. 4. *Churches. Church-yards.*

Some offenders about Recusancy; by 1 *Eliz.* 2. 23 *Eliz.* 1. 29 *Eliz.* 6. 35 *Eliz.* 1. 2. 1 *Jac.* 4. 3 *Jac.* 5. 7 *Jac.* 6. *Recusants.*

And in the Sessions also [as to Civil, or Secular Matters] they may hear, determine, and punish all Felonies, that were Felonies at the Common-Law, 2 *Ed.* 3. 6. 18 *Ed.* 3. 2. 34 *Ed.* 3. 1. 17 *R.* 2. 10. *Felonies by Common-Law.*

So all Petit Larcenies. *Larcenie.*

Buggery; by 25 *H.* 8. 6. *Buggery.*

An incorrigible Rogue, that being banished, shall return again without License; by 39 *Eliz.* 2. *Rogue.*

One that hath a Plague-sore upon him, and is forbid to go abroad, and yet doth it; by 1 *Jac.* 3. 2. *Plague.*

Hunting with
Vixards.

Hunting with Vixards in the night in For-
rests, Warrens, or Parks; by 1 *H. 7. 7.*

Transportation of sheep alive out of the
Realm the second time; upon 8 *Eliz. 3.*

Souldiers and
Mariners.

Souldiers, Mariners, and Gunners, which de-
part from their Captains without License, by
18 *H. 6. 19.* 2 *Ed. 6. 2.* 4 and 5 *P. and M. 3.*
5 *Eliz. 5.*

A wandering Souldier or Mariner abusing
himself; by 39 *Eliz. 17.*

Powdicks

Such as break down new *Powdick* in *Marsh-*
land, or old *Field-Dike* in *Norfolk* and *Cambridg*,
by 22 *H. 8. 11.* 2 and 3 *P. and M. 19.*

Riot and Fraud,
Force, Forgery,
Barrettry, Con-
spiracy,
Nusances.

So such as offend by Riots, Routs, and the
like. Forcible Entries, and Detainers, Extorti-
ons, Conspiracies, Nusances, Maihne, Barrettry,
Trespas, Rescue, Forgery. Some kind of Incon-
tinency, Libelling, Slander, Conspiracy, Fraud,
Deceit, Night-walkers. So some offence about
the High-ways, *Cook 13. Pag. 33.* So Justi-
ces are in Sessions to hear, determine, and punish
offenders and offences.

Horses.

About the breed of Horses of a higher stature,
by 32 *H. 8. 13.*

About the keeping of great Horses, by 33 *H.*
8. 5.

About the transportation of Horses, by 1 *Ed.*
6. 5.

About stolen Horses, by 2 and 3 *P. and M. 2.*
1 *Eliz. 12.*

Hoflers, and
Inn-holders,
Horse-bread.
Tanners, Curri-
ers, &c.

About Hoflers and Inn-holders for Horse-
bread, by 32 *H. 8. 21 Jac. 21.*

About Tanners, Curriers, and Shooe-makers,
by 1 *Jac. 22.* 4 *Jac. 6.*

Officers.

About Sheriffs, Coroners, Escheators, Clerks
of

of the Market, and other County, Hundred, and Parish, or Civil Officers; most of their offences are to be punished within the Sessions, 1 H.

8.7. 42 Ed.3.9. 8 H.6.9. 23 H.6.10. 27 El. 12. 39 Eliz.4.17. 11 H.7.15.

About Usury, by 13 Eliz.8.

Usury.

About Weights and Measures, by 9 H.5.8.

Weights and Measures.

11 H.7.4. 8 H.6.5. 1 H.5.10. 11 H.6.8.

About the Defaults of such as sell Wine, by

Wine and Vintners.

28 H.8.14. 7 Ed.6.5. 37 H.8.23.

About the Navy, by 5 Eliz.1. 1 Jac.25.

Navy.

About Money, by 19 H.7.3.

Money.

About levying of Issues lost by Jurors, by

Issues.

27 Eliz.7. 39 Eliz.18.

About Cottages and In-mates, by 31 Eliz.7.

Cottages and In-mates.

And here they are to order the setting up of a Cottage with the Lord's consent, by 39 Eliz.4.

So also, about Bassards, upon an Appeal to them from the Order of the two Justices; by 18 El.

Hue-and-Cry.

3. 1 Jac.25. 7 Jac.4. So neglects about Hue-and-Cry, by 27 Eliz.13. So neglect about Watch and Ward, to offences and offenders.

Watch & Ward.

About the making of Mault, by 2 Ed.6.10.

Mault.

1 Jac.25. So about any that sell unwholesome or corrupt Victuals, or sell deceitful Wares, or buy unlawful Weights, or the like; by 3 and 4

Corrupt Victuals.

Ed.6.15.19. 5 Eliz.4.19. 5 and 6 Ed.6.14.

1 Jac.22,24. 23 H.8.4.

So about fore-stalling, regrating, and ingrossing of Victuals, &c. by 5 Ed.6.14.15. 13 El.

Fore-stallings &c.

25. 2 and 3 P. and M.13. 5 Eliz.12. 1 Jac.

22. Of Tanned Leather, of Wool, of Hides, of Bark, of Corn, Cattle, or other Provision, 14

Car.2.

So

*Ale-house-Keep-
er.*

So about the selling of Ale or Beer to one that hath no License, by 4 *Jac.* 4.

Gold-Smith.

About a Gold-Smith in his Trade, by 2 *H.* 6. 14. 4 *H.* 7. 2. 18 *Eliz.* 15. 17 *Edw.* 3. 14. 8 *H.* 5. 3.

Perjury.

About wilful Perjury made, or procured, by 5 *Eliz.* 9. 29 *Eliz.* 5.

*Counterfeit-Let-
ters, &c.*

About such as get another man's goods, by false Letters, or Tokens; by 33 *H.* 8. 1.

Arrow-heads,

About such as make false Arrow-heads, by 7 *H.* 4. 7.

False News.

About the contriving, and telling of false News, by 3 *Ed.* 1. 33. 2 *R.* 2. 5. 12 *R.* 2. 11. 1 and 2 *P.* and *M.* 3.

*Common Inform-
ers, and Inform-
ations.*

About common Informers, by 18 *Eliz.* 5. 27 *Eliz.* 10. 31 *Eliz.* 12.

False Prophecies.

About the publishing of false and phantastical Prophecies, by 5 *Eliz.* 15.

About Artificers, Labourers, &c. by 2 *Ed.* 6. 15.

*Eggs of Wild-
Fowl.*

About the destruction of the Eggs of Wild-Fowl, by 25 *H.* 8. 11. 3 *Ed.* 6. 7.

Hawks, & Swans.

About the taking of Hawks or Swan's Eggs out of their Nests, &c. By 11 *H.* 7. 17.

About Hawking, Hunting, and killing of Deer, Hares, Conies, Pheasants, Partridges, &c. By 1 *Jac.* 27. 3 *Jac.* 13. 19 *H.* 7. 11. 1 *H.* 7. 7. 7 *Jac.* 11. 13. 17. 5 *Eliz.* 21.

Fish-Spawn.

About such as destroy Fish, fry, and spawn, &c. By 1 *Eliz.* 17. And such as destroy Salmon, 17 *R.* 2. 9. 13 *R.* 2. 2. 17 *R.* 2. 9. 1 *Eliz.* 17. 27. 5 *Eliz.* 21. 5.

*Artillery Butts,
&c.*

About Artillery, Bows, Butts, &c. By 33 *H.* 8. 9. 34 *H.* 8. 7.

About

About unlawful Games, by 33 *H.8.9.*

About Viſtuallers. By 2 *Ed.6.15.* they may *Viſtuallers.*
limit their gains, and puniſh them that take ex-
ceſſively.

About Transportation of Corn, Beer, Butter, *Transportation*
Cheeſe, Herring, and Wood, beyond Sea; and *of Buſter and*
other offenders about Butter and Cheeſe. By *Cheeſe.*

1 and 2 *P. and M.2.* 13 *Eliz. 25.* 21 *Jac. 28.*

1 *Jac. 22. 25.* 8 *Ed. 2.3.* 13 *Eliz. 12.* 14 *Car.*

2. 3 and 4 *Ed. 6.21.* 5 and 6 *Ed. 6.21.*

About the Mill-Cards taking of exceſſive *Mill-Cards.*
Toll, by 31 *Ed. 1. de Piſtoribus.*

About keeping of Milk-Kine, and breeding *Milch-Kine.*
of Calves. By 2 and 3 *P. and M. 23.* 13 *Eliz.*
25.

About the Conſpiracy of Viſtuallers, or La- *Conſpiracy.*
bourers, to ſell, or do their work at ſuch rates:
2 *Ed. 6. 15.* 3 *Jac. 11.* 1 and 2 *Ed. 6. 5.*

About the killing of Wainlings, under two *Wainlings.*
years old to be ſold, by 24 *H. 8. 9.* 1 *Jacob.*
25

About Riots, Routs, and unlawful Aſſemblies, *Riots, Routs, &c.*
by 13 *H. 4. 7.* 2 *H. 5. 8.* 8 *H. 6. 14.* 19 *H. 7.*
13.

About the offences by Badgers and Dro- *Badgers and*
vers, by 5 *Eliz. 12.* *Drovers.*

About the not barking of Oaken Trees fel- *Bark of Trees.*
led, by 1 *Jac. 22.*

About Captains and Souldiers, that abuſe *Souldiers in Mu-*
themselves about Muſters, by 4 and 5 *Ph. and*
M. 3. *lters.*

About Ale-houſe-keepers, and Tipling, and *Alehouſe-Kee-*
Drunkenneſs, by 21 *Jac. 4. cap. 4.* 7 *Jac. 10.* *pers, Tipling,*
1 *Jac. 9.* 1 *Car. 4.* *Drunkenneſs.*

About

Wax-Chandlers.

About Wax-Chandlers, by 11 *H.6.12.*About the making up, packing, and weighing of Butter, by 34 *Ed.6.21.* 21 *Jac.24.14 Car.2.*

Husbandry, Tillage.

About Husbandry and Tillage, by 139 *Eliz.8.*

Concealment.

About Jurors for Concealment, by 3 *Hen.7.1.*

Tile-making.

About Tile-making, by 17 *Ed.4.4.*

Forgery.

About Forgery of Deeds, by 5 *Eliz.14.*

Fairs and Markets.

About Fairs and Markets, by 2 and 3 *Ph.and M.7.*

Maltsters and Malt.

In the Sessions they are to restrain the superfluous number of Maltsters, and punish the making of bad Malt, by 2 and 3 *Ed.6.10.* 5 & 6 *Ed.6.14.* 39 *Eliz.10.* And of Ale-houses, 5 and 6 *Ed.6.25.*

Butter and Cheese.

Restrain such as trade in Butter and Cheese, to trade in their own County for a time, by 21 *Jac.22.*

Houses of Correction.

Order the erecting, and government of Houses of Correction, by 39 *Eliz.4.*

Rogues and idle persons.

Order all matters about Rogues, and punish many offenders against the Statutes about them, by 39 *Eliz.4.* 7 *Jacob.4.* 1 *Jacob.7.* 43 *Eliz.2.*

Poor.

Order all things about the Poor, and punish many offenders against the Statutes about them, by 43 *Eliz.3.* 14 *Car.2.* So idle persons that will not work. There also they are to License such as may sell Wine in Corporate Towns, by 7 *Ed.6.5.* Badgers, Drovers, &c. to use their Trade, &c. and to transport Corn, Butter, &c. by 7 *Ed.6.5.* Any to shoot in a Gun for Hawkinbate, by 1 *Jac.29.* Punish Usury

Licenses, Wine.

Usury upon 1 H. 6. 9. Taking above ten pound in the hundred, by 13 Eliz. 6. But not upon 21 Jac. 17. for taking of eight pound in the hundred. Usury.

In the Sessions they are to set the Rates, for the King's Bench and Marshalse, by 43 Eliz. 2. Mariners and maimed Souldiers, 43 Eliz. 3. For the Prisoners in the Goal, by 14 Eliz. 3. 43 Eliz. 2. 14 Car. 2. For the building of a Bridewell, 7 Jac. 4. For the Wages of Servants, 5 Eliz. 4. For Victuals and Victuallers, and Hostlers for their Horse-bread, by 13 R. 2. 8. 23 H. 6. 13. For the Prizes of Barrels, Kilderkins, Firkins, &c. 8 by Eliz. 9. And here they are to give relief to such as are grieved by Rates, by 43 Eliz. 2. 3. 14 Eliz. 5. and others. Rates.

In the Sessions, they appoint County-Officers, as Treasurers for the Money, for the King's Bench, Marshalse, Mariners, maimed Souldiers, Governors of Bridewell, Clerk of the Peace, Dressers of Cloth, Searchers of Leather, by 1 Jac. 22. Gawgers of Vessels, by 23 H. 8. 25. Conservators of Rivers, by 27 R. 2. 9. Collectors of the County-money, Masters of Bridewell, High-Constables, Pety-Constables. And here they may order these Officers, the Sheriff, and other Officers, 14 Eliz. 5. 30 Eliz. 4. 7 Jac. 4. 3 H. 8. 3. 1 H. 8. 7. 11 H. 7. 15. 27 Eliz. 12. Here they punish such as suffer Felons to escape, by 13 R. 3. 3. 3 H. 7. 1. And all that offend against 27 H. 8. 28. 23 H. 6. 11. 5 H. 4. 3. 14 Car. 2. Moss-Troopers. There also Recognizances are to be discharged; and from hence they are to be sent into the Exchequer, To make Officers. To punish them. Escapes. Recognizance.

County-stock,
Retitution of
stolen goods,

Pensions to Sol-
diers.

quer, when they are forfeited. And he a Re-
cognizance forfeited by an Ale-seller, may be
sued out, by 5 and 6 *Ed. 6. 25*. Here they may
dispose of the County-stock, for the relief of the
Poor, and punishment of Rogues, by 43 *Eliz. 3*.
Here they may restore to a man his goods stolen,
who hath by his industry procured the Felon to
be indicted, and found guilty before them; by
21 *H. 8. 11*. Here much of the work is done,
about the relief of maimed Souldiers, and of
the Widows and Orphans of Souldiers slain;
by 43 *Eliz. 3. 14. Car. 2*. Here Bail may be
taken, as it may without the Sessions; and, in
some Cases, where it cannot be taken without
the Sessions; by 3 *Ed. 6. 15. 1 and 2 Ph. and*
M. 13. 3 H. 7. 3. And here they may fine an
offender as they see cause; but their Fines must
be just and reasonable; by 34 *Ed. 3. 19*.

All these things they may do; but they must
do them within, and not without their Sessions.
And there, if it be for the punishment of offen-
ces, and offenders, it must be done by way of
Indictment, Traverse, &c.

NUMB. II.

Ministers.

Lords-Day.

THE things the Justice may do indiffe-
rently within, or without their Sessions;
or partly within, and partly without their Sess-
ions, are such as these things following. [*In Sp-
rituals*] They may punish such as disturb a Mini-
ster in the Publique Service; by 1 *Ma. 3. 5. and*
6 Ed. 6. 4. Such as profane the Lord's Day;
by 3 *Car. 1*. So Popish Recusants; by 3 *Jac.*
5. 35 Eliz. 2. So they are to do, what they
have

have to do, about the punishment of the Mass,
Jesuits and Priests; by 27 *Eliz.* 2. 2. 23 *Eliz.*
1. 33 *Eliz.* 2.

In Civil Matters: such as shall offend by
forcible Entries, Detainers: or, by Ryots, Routs,
unlawful Assemblies; by 13 *H.* 4. 7. 2 *H.* 5. 8.
19 *H.* 7. 13. So about Felons, much is to be
done within, and much without the Ses-
sions.

Forcible Entry
Ryots, Rout, &c.

So they may punish the offences about Print-
ing of Books, by 14 *Car.* 2.

Printing of
Books.

So they may punish Drunkards and Drun-
kenness, by 4 *Jac.* 5. and offences in Inn-kee-
pers, and such like; by 1 *Jac.* 9. 1 *Car.* 4. 5. and
6 *Ed.* 6. 25.

Drunkenness.

So they are to punish such as do unlawfully
hunt, and steal Deer, Conies, Fish, Hawks, Eggs,
&c. by 5 *Eliz.* 21. 3 *Jac.* 13.

Hunting, Hawk-
ing, &c.
Deer, Conies,

Such as kill Pheasants, &c. upon 1 *Jac.* 27.
23 *Eliz.* 10. And such as keep Deer-Hays,
Buck-stalls; or stalk with any Bush or Beast; or
take young Hierons out of their Nests, 19 *H.*
7. 11.

Deer-Hays, &c.

And such as keep Dogs to hunt, Ferrets,
Hays, Nets, 13 *R.* 2. 13.

Dogs, Ferrets.

Such as offend about Prisons, Prisoners, and
Gaols, by 5 *H.* 8. 10. 23 *H.* 8. 2. 3 *Jac.*
10.

Prisoners.

And such as offend about Cross-Bows, and
Hand-Guns, by 33 *H.* 8. 6. 2 and 3 *Edw.* 6.
14.

Cross-Bows, and
Hand-Guns.

And such as offend by Armour, or by going,
or riding in Armour, by 2 and 3 *Ed.* 3. 3. 7 *R.* 2.
13. 20 *R.* 2. 1.

Armour.

And

- Purveyors.** And Purveyors, upon 14 *Car. 2.* and such as offend by Purveyance.
- Excise and Customs.** And such as offend about the Excise and Customs, by 12 *Car. 2.*
- Cloth and Clothiers.** So all offenders about Wollen and Linnen Cloth; by 1 *Eliz. 12.* 39 *Eliz. 20.* 21 *Jac. 18.* 28. 3 and 4 *Edm. 6. 2.* 4 *Jac. 2.* 43 *Eliz. 10.* 23 *Eliz. 9.* 5 and 6 *Ed. 6. 5. 22.* 36 *Eliz. 11.* 4 and 5 *Ph. and M. 5.*
- Logwood.** By Logwood, 39 *Eliz. 11.* 1 *Jac. 6.*
- High-ways.** So some offenders about the High-ways; by 2 and 3 *Ph. and M. 8.* 5 *Eliz. 13.* 18 *Eliz. 10.* 14 *Car. 2.*
- Rogues.** So are they to punish many of the offences about Rogues, by 39 *Eliz. 4.* 14 *Car. 2.*
- Robbery.** So many offences about the Poor; by 43 *Eliz. 3.* 14 *Car. 2.*
- Captains and Souldiers.** So some offences about Captains and Souldiers; by 2 *Ed. 6. 2.* 18 *H. 6. 19.* 7 *H. 7. 1, 2.* 3 *H. 8. 5.* 43 *Eliz. 2.* 3 *H. 6. 1.*
- Officers.** So Officers, for many things about their Offices; as Coroners, for some neglect of their Office; or taking of more then their distress, by 1 *H. 8. 7.*
- Coroners.** So some of the Defaults of Coroners, and of all other Countiees, Hundreds, and Parish Officers, that are not Special Officers; by 8 *H. 6. 9.* 11 *H. 7. 15.*
- Masters, Labourers, Artificers, and Servants. Rating Wages.** So some of the Defaults of Sheriffs, and their Bayliffs, by 42 *Ed. 3. 9.* 2 *H. 6. 9.* 23 *H. 6. 10.*
- So they may within and without the Publique Sessions, rate the wages of Servants; Labourers, and do what they have power to do herein, &c.

By 5 *Eliz.* 4. 39 *Eliz.* 12. 1 *Jac.* 6. 2 and 3
Ed. 6. 16. 21 *H.* 8. 7. 1 *Jac.* 17. 3 *Jacob.* 9.
2 *Ed.* 6. 15.

So they may discharge Ale-houses, by 5 and
6 *Ed.* 6. 25. 2 *H.* 5. 4.

So the Relief, Settlement, Order, and punish-
ment of the Poor, and the Officers that have to
do with them, is much of it to be done within,
and much of it may be done without the Sessi-
ons, by 39 *Eliz.* 4. 42 *Eliz.* 2.

Poor.

So that they have to do about Transportation,
and Importation, is some of it to be done with-
out, and some of it within the Sessions, by 14.
Car. 2. 3 *Eliz.* 3.

Transportation.
Importation.

So about Mault and Maulsters, by 2 *Ed.* 6. 10.
39 *Eliz.* 2. 16. 1 *Jac.* 25. 11 *Jac.* 28. 27 *Eliz.*
14.

Mault and Maria-
ners.

So they may License the selling of Ale, by 5
and 6 *Ed.* 5. 26.

To make Licen-
ces.

Some Licenses may be made without; and
some may not be made, but within the Sessions.
See afterwards, *Chap.*

So that which is to be done about Crows, by
24 *H.* 8. 10.

Crows.

Some Rates may be made out of the Sessions,
and some must be made in the Sessions. See af-
terwards.

So they may set the Rates for Ale and Beer
by 23 *H.* 8. 4.

Rates for Ale
and Beer.

So they may set a Rate to relieve places in-
fected with the Plague, by 1 *Jac.* 13. And do
much of that to be done about this without; and
some must be done within the Sessions, 1 *Jac.*
31.

For the Plague.

There is much to be done about Purveyance
by

Purveyance.

Fish and Fishing.

by them within, and without, their Sessions, by 12 *Car.* 2. and 13 *Car.* 2.

There is much about Fish and Fishing to be done within, and some without the Sessions, by 1 *Eliz.* 17. 5 *Eliz.* 5. 21. 3 *Jac.* 12. 1 *Jac.* 23. *Westm.* 2. 43.

Horses.

So about Horses, there is somewhat to be done without, and somewhat within the Sessions, by 33 *H.* 8. 13. 31 *Eliz.* 12.

Robbery.

So many things are to be done about a Robbery, by 27 *Eliz.* 13.

Estreats of Fines.
Co.

So they are to make their Estreats of the Fines and Forfeitures before them double, and set their names to them, and deliver one part thereof to the Sheriffs, 14 *R.* 2. 11.

Weights and Measures.

About Weights and Measures, they have something to do without, and something they may nor do, but within the Sessions, by 17 *Car.* 19.

Water-men upon Thames.

So the Justice of the Counties, adjoyning to *Thames*, are to hear and punish the Offences by Water-men, by 2 and 3 *P.* and *M.* 16.

Tife-making.

So Orders about Tife, and the matters about it, are to be punished, and done in, and out of the Sessions, by 17 *Ed.* 4. 4.

Trade and Manufacture.

So about Trade and Manufacture, they have power to do something without, and something onely in the Sessions, by 14 *Car.* 2.

So upon 1 *Jac.* 6. 2 and 3 *Ed.* 6. 10. 17 *R.* 2. 9.

They also, in or out of the Sessions, administer Oaths to Sheriffs, Constables, Officers of Excize, Overseers of Cloth, Overseers of them infected with the Plague, Officers and Soldiers of the *Militia*, under Conservators of Rivers

Rivers, when they come into their Offices.

So for Surety of the Peace, upon a Robbery, and elsewhere. And the taking of Surety of the Peace, or good Behaviour, may be within, or without the Sessions.

NUMB. III.

THE things that they may do, or are to be done onely, or most properly and frequently out of the Sessions, are the things that follow, (*viz.*)

[*In Spirituals.*]

So they are to punish profane Swearing and Cursing, by 21 *Jac.* 20. Swearing and Cursing.

Such as come not to Church every Lords-Day, and Holiday, by 1 *Eliz.* 2. Coming to Church.

Such as profane the Sabbath, and keep not sabbath. Holydays, by 2 and 3 *Ed.* 6. 19. 1 *Car.* 1. 3 *Car.* 1. 3 *Jac.* 5.

Popish Recusants, and what concerneth them, is most of it to be done out of the Sessions, by 35 *Eliz.* 2. Recusants.

So they may, without any Sessions, require, Oath of Supremacy and minster the Oaths of Supremacy and Allegiance, and some other Oaths, by 1 *Eliz.* 1. Oath of Supremacy and Allegiance.
5 *Eliz.* 1, 3, 4. 7 *Jac.* 6.

So they may give, and take divers Oaths; as Other Oaths of the Sheriffs, his Deputies, Constables, &c.

So they may take Surety of the good Behaviour of such as are out of good name, by 34 *Ed.* 3. 10. So Surety for the Peace, where it is to be granted, may be taken. Surety of the good Behaviour, and of the Peace.

So they may hear, determine, and punish some of the offences, about the taking of Pheasants, Pheasants and Partridges taken with Nets.

fants, Partridges, and with Nets; and examine suspected offenders, by 11 *H. 7. 17.* 23 *Eliz. 10. 1 Jac. 27.* And most of all this out of any Sessions.

Sewers.

So they may act somewhat about the Commission of Sewers, by 13 *Eliz. 2. 9.*

Examination of one robbed.

So any one of them may take the examination of them that have been robbed, by 27 *Eliz. 13.* out of any Sessions.

Wine.

The Justices may enter into a Merchants house, which denies to sell Wine at the price assessed, and sell the Wine, by 24 *H. 8. 6.* 37 *H. 8. 32.* 5 *Ed. 6. 17.*

Ward.

So they may help to divide a Ward, where the Owner and Commissioners thereupon cannot agree, by 35 *H. 8. 17.* out of Sessions.

Rates made, confirmed.

So they confirm many Rates to the Poor, High-ways, and others, out of any Sessions. And some Rates they make out of their Sessions; as upon a Robbery for Contribution, and Division of a charge upon a Hundred, and others.

Plague.

Two Justices may cause a Rate to be made and levied, to relieve a place infected with the Plague, by 1 *Jac. 31.* out of any Sessions.

Lent.

So Justices may in Lent enter into houses suspected, to dress meat in Lent, to search, &c. 3 *Car. 4. 5 Eliz. 5.*

Guns.

So a Justice may take the Presentment of him that useth a Hand-Gun, upon 2 and 3 *Ed. 6. 5.* out of Sessions.

Pewter, Brass.

So the Justices, may, out of Sessions, appoint two experienced persons in Pewter and Brass, to make search thereof, by 19 *H. 7. 6.* 4 *H. 8. 7.*

And

So they have much to do there about Purvey-
ance, by 14 *Car. 2.* And they do this out of Ses-
sions. Purveyance.

So they may call the old Treasurers to an ac-
count, by 14 *Car. 2.* out of Sessions. Accounts.

So any one Justice may punish Trespassers
in Orchards, Gardens, Hedges, &c. by 43 *Eliz.*
7. and this out of Sessions. Trespases.

So two Justices are to take order for the pun-
ishment of the Mother, and reputed Father of
a Baltard-Child, and for the keeping it from
being a charge to a Parish, by 18 *Eliz. 2. 3. 1*
Jac. 25. And this they do out of Sessions. Baltard-Child.
Licenses.

So the Justices may make many Licenses out
of Sessions, 5 *Eliz. 12. 5* and 6 *Ed. 6. 14. 13*
Eliz. 13. See them after in *Chap.*

So two Justices may examine Sheriffs, &c. of
their entry of Plaints, and execution of Process,
by 10 *H. 7. 15. 1 Ed. 4. 2.* Sheriffs.

And so two Justices may keep a special Ses-
sions to punish the offences between Masters
and Servants, by *Eliz. 4.* And divers other things
the Justices have to do upon that Statute out of
Sessions. Masters, Servants
Labours.

So the Justices do take many Recognizances
out of Sessions. Recognizances.

So no Fisher-man may be taken to serve the
King as a Mariner, but by the advice of two Ju-
stices of Peace, by 5 *Eliz. 5.* This may be out of
Sessions. Mariners, Fish-
men.

So one or more Justices are to do much about
a forcible Entry or Detainer, by 5 *R. 2. 7. 15 R.*
2, 2, 3 *H. 6. 9. 31 Eliz. 11. 21 Jac. 15.* Forcible Entry;
and Detainer.

Tyrthes.

Two Justices may commit him that wilfully refuseth to pay his Tyrthe, by 27 *H.8.* 20. and this may be out of Sessions.

Inrolment of Deed.

One Justice may joyn with the Clerk of the Peace to inroll a Deed, by 27 *H.8.* 6. out of any Sessions.

Physicians in London.

In *London* they are to assist the Colledge of Physicians, by 1 *Mar.9.* 14 *H.8.* 5. This may be out of Sessions.

Officers.

Some Officers may be made by them out of Sessions, as some are made in the Sessions. See afterwards, *Chap. 39.*

Treason.

But the Justices have nothing to do in, or out of Sessions (except to examine, send to Goal, and bind over, &c.) with offenders in Treason, upon 1 *Eliz.* 1. 5 *Eliz.* 4. 1 *Jac.* 4. 3 *Jac.* 5. 13 *Eliz.* 1.

Records imbezelling.

Nor with Felonies, by imbezelling of Records, upon 8 *H.6.* 12.

Masons.

By Confederacy of Masons, upon 3 *H.* 7. 2.

Carrying away a Woman.

For carrying away a Woman against her Will, upon 3 *H.7.* 2.

Bigamy.

For double Marriage, upon 1 *Jac.* 11.

Witchcraft.

For Witchcraft, upon 1 *Jac.* 12.

For a Gaoler to make his Prisoner to approve, upon 14 *Ed.* 3. 9.

Levying a Fine in anothers name.

For the levying of a Fine, or suffering a Recovery, entering into a Statute, or giving Judgment in anothers name, upon 21 *Jac.* 29.

Servants of Masters goods.

For a Servant imbezelling of his Masters goods, upon 21 *H.8.* 7. 5 *Eliz.* 10.

Burning of houses.

For burning of a house, or the frame of a house, upon 37 *H.8.* 6.

Nor have they any thing to do with the offences about prices of Bows, 8 *Eliz.* 10. Bows.

Bringing in of Foreign Wares, upon 5 *Eliz.* Forreign Wares.

7. About selling of Cattle, upon 3 and 4 *Ed.* 6. Cattle.

19. About Bears, upon 12 *Ed.* 4. 2. 1 *R.* 3. 13.

About a Servants wasting his dead Matters goods, upon 21 *H.* 8. 7.

About Cloth, upon 43 *Eliz.* 14. 27 *H.* 8.

12. About Woollen Yarn, 7 *Ed.* 4. 3.

About Coopers, upon 23 *H.* 8. 4. 31 *Eliz.*

8. About the Clerk of the Markets, upon 13 *R.*

2. 4. About Sheriffs, upon 1 *Ed.* 4. 2. 4 *Ed.* 3. 10. Or

Maintainance and Champettry, upon 32 *H.* 8. 9.

About Usury, upon 21 *Jac.* 17. But upon 37 *Usury.*
H. 8. 9. they have to do, by 13 *Eliz.* 8. Or Forgery, by 5 *Eliz.* *Cro.* 1. last publish'd, 601. But perhaps, as it is an offence at Common-Law, they have to do with it. Nor about Inn-holders, upon 13 *R.* 2. 8. and 4 *H.* 4. 25. for taking above a half-peny in a Bushel for Oats, above the common price.

NUMB. IV.

The way of the
Justices proceed-
ing.

Within the Ses-
sions,

And for the manner of the Proceeding of Justices, and the means they use for the exercise and exertion of their power, before laid down, this is to be known.

First, That within their Sessions (as to the punishment of the offenders before-mention'd) the most they do, is by way of Indictment, or Information, or Presentment, a Traverse to it, and a Tryal by a Petit Jury; and so by Judgment and Execution thereupon. But in some special Cases, and upon some special Statutes, there is another way of Tryal. And here they make Orders, about settlement of the Poor, Rates, and divers other things, referring to the particular Heads before-named.

But more particularly, in the Sessions, an Indictment, or Presentment, will lye for all the offences, and in all the Cases following; that is to say,

Where, and for
what offences, a
man may be in-
dicted, or pre-
sented in a Ses-
sions.
Felony.

About Felony

For any Felony at Common-
Law, *Croo. 1. 274.*

For suffering a Felon to escape,
Cro. 1. last publish'd, 752.

For endeavour to poyson a
man.

For one that hath dangerously
hurt another, that he is like
to die.

Rescous.

For a Rescous.

For a Rescous of any Offen-
der, especially a Felon,
*Croo. 2. 345. Bulstr. 1 Part
204. March, Rep. Pl. 105.*

For

For suffering of any Offender to escape, especially a Felon. Escape.

About Trespass. { For a false Imprisonment, *Stiles Rep. 24.*
For a Maim, or for an Assault and Battery, *Dyer 285.* Trespass.

{ to that Inlands, { Breaking of a
{ which is or { house, or Close-
Goods, { breaking, or ta-
{ king away of
{ Goods.

About a Nu- { For setting up of a Dye-house,
sance, { House of Office, Hot-Water
house, or the like house, that is
a Nuisance to any house, Nuisance.
Stiles, Rep. 314.

{ For stopping, or diverting a Wa-
ter-course, &c. *Stile's Rep.*
314. Bulstr. 2 Part 119.

{ By not repairing; by digging
Pits, &c.

About Fore-stalling, Regrating, and Ingrossing, *Stile's, Rep. 217.* Fore-stalling,
Regrating, and
Ingrossing.

As an Offence at Common-Law, or upon the
Statute, *Croo. 1. 277.*

About { *Scandalum Magnatum*; as a scandal.
Slander. { breach of the Peace, and of-
fence at Common-Law,
Stile's Rep. 245.
{ So it seems for the slandering of
other men, especially Magi-
strates, *Stile's Rep. 254.*

About

- Ryot, Rout, unlawful Assembly. About a Ryot, Rout, and unlawful Assembly, either at Common-law, or upon the Statute, { Alone. Joyned with notorious Trespasses; casting down Houses, Pales, Heads of Fish-Ponds, &c. *Stile's Rep.* 191. *Croo.* 1. 562. *Bul.* 1. Part 207.
- Forcible Entry, or Detainer. About a forcible Entry, or Detainer, *Stile's Rep.* 137. 84, 87, 123, 135, 136, 146, 174, *Croo.* 1. last published, 697, 698. *Croo.* 2. 639. 17, 19, 31, 41, 214, *Coo.* 4. 48. *Bulstr.* 1 Part, 177, 201. 2 Part 121. *Latch's Rep.* 225.
- Extortion. For Extortion, and that upon the Common-Law, or upon some of the Statutes, *Stile's Rep.* 430, { *Leanord Rep.* 295. 434.
- Perjury. For Perjury, and subornation of Perjury; and this by the Common-Law, or upon the Statute, *Stile's Rep.* 337, 374, 116, 126, 374. *Croo.* 1. 235, 256. *Bulstr.* 3 Part 222.
- Counterfeiting of Tokens, &c. For Deceit used by Forgery of Letters, or false Tokens, to get Money or Goods from a man, *Stile's Rep.* 145. 12.
- Barrettry. For Common-Barrettry, *Stile's Rep.* 29, 30. *Croo.* 2. 527. *Croo.* 1. 248. *Latch's Rep.* 194.
- Usury. For Usury; if it be grounded upon, 37 *H.* 8. 9. by 13 *Eliz.* 8. for ten pound in the hundred. But not upon 21 *Jac.* 17. upon the Contract for eight pound in the hundred pound.
- Night-Walkers. For being a Night-Walker, *Latch's Rep.* 193.
- Eyes-Dropper. For being an Eyes-Dropper.

About

About Incontinencie. { For keeping 'a Common-Bawdy house, *Stile's Rep.* Incontinency. 326.

{ For attempting to ravish a Woman.

About Deceit, for cheating at Play.

{ For an Icroachment, *Croo.* 1. last published, 231. Deceit.

For stopping of it, *Latch's Rep* 183.

About Highways, Bridges, and Streets.

For Nufances, *Croo.* 1. 422. High-ways. *Bulstr.* 1 Part, 203. *March, Rep. Pl.* 71.

For not repairing of them. *Stile's Rep.* 108, 157, 163, 400. *Croo.* 2. 616. *March. Rep. Pl.* 71.

For not doing their appointed work.

{ For refusal of their Offices of Constable, Overseers of the Poor, &c. *Stile's Rep.* 394. Officers.

About Officers.

{ For neglect of their Offices. *Croo.* 1. last published, 655. For the Constable's neglect, in the execution of the Justices Warrant.

{ For selling without Licenses.

For taking excessively for Hay and Oats. Ale-houses, and Ale-house-keepers.

About Ale-houses, and Ale-house-keepers.

For keeping of evil order, upon 1 *Jac.* 9.

For breaking of the Assize, and keeping Gaming, upon 1 *Jacob.* 9.

For

The Office of

For staying above an hour in an Ale-house.
 For harbouring idle and suspicious persons.

Games and Pastimes,

About Games and matters of pleasure

For keeping of unlawful Games in his house.
 For killing of Hares in the Snow upon 14 *H. 8. 10.* 1 *Jacob. 27. Bulstr.* 3 Part, 178.
 For Hawking in Corn, upon 23 *Eliz. 10.*

Hue-and-Cry.

About Hue-and-Cry.

For not raising Hue-and-Cry after a Felony, done in the night, being a Constable, and required to do it, *Croo. 1.* last published, 655.

striking in a Church, for Church-yard.

About striking in a Church, or Church-yard, or drawing of a Weapon there, *Croo. 1.* last published. 200. *Noy's Rep.* 171. upon 5 and 6 *Ed. 6. 4.*

Recusancy, and not coming to Church to take the Oaths.

About Recusancy, *Croo. 1.* 362. 430. *Bulstr.* 1 Part, 197, 198. *Leonard's Rep.* 321, 326, 322. *Goldsb.* 162.

For refusing to use the Book of Common-Prayer.

Disturbance of a Minister.

For disturbing of a Minister in the Publique Service, upon 5 *M. 3.*

Minister refusing to administer the Communion.

Against a Minister refusing to administer the Communion, upon 1 *Eliz. 2.*

Guns,

For shooting in a Gun, not having one hundred pound a year, upon 33 *H. 8. 6.*

About

About the setting up, and continuance of Cottages; and about the placing, or continuance of Inmates, *Stile's Rep.* 33. *Croo.* 2. 603.

Cottages, and Inmates.

About Masters, Servants, and Apprentices. { For using a Trade, not being an Apprentice to it seven years, *Stile's Rep.* 449.

Masters, Servants Apprentices.

{ For a Masters undue putting away of his Servant.

{ For abusing an Apprentice.

{ For enticing of Servants from their Masters.

{ For a Servants departing from his Master.

About Inn-keepers, Hostlers, &c. { For taking more then the Rate allowed, *Croo.* 2. 610, 611.

Inn-keepers, and Hostlers.

About a Badger, Drover, &c. { For using the Trade without License, upon 5 *Eliz.* 14.

Badger, Drover.

For cutting of Horse-Tails. { For these, and many other such like offences as these, any man may be indicted, or presented before the Justices, in their Sessions of the Peace.

But yet further, for the better understanding of the Law in this; and for the knowledge of the offences, within the Consuance of the Justices of the Peace, these things are further to be known,

I That

Trespases.
By Force.

By Fraud.
Conspiracy.
Libelling.
Slandering.

Deceit.

Millard.

1. That for any offence, by Word or Deed, that was an offence at Common-Law, and was *contra pacem*; a man is indictable in this Court before the Justices of the Peace. And therefore it is generally held, That for all Trespases done by Force, upon which an Action of Trespas may be brought; so as for breaking of ones house, entring and eating of his ground, spoiling of his Corn, breaking, or taking away of his goods, or the like; for all these things, a man may be here indicted. So for wrongs done by Fraud and Deceit. As for a Conspiracy to indict. For Libelling and slandering, where the words are Actionable at Law. So for selling deceitful Wares, or by false Weights or Measures; for selling to another that which is not his own; or for selling corrupt Victuals; for playing with false Dice. Or being Millard, for changing of my Grist; for any kind of Nusances, and for all such like wrongs: for remedy whereof, in the Action brought by him that is wronged he doth say in his Writ, it is *contra pacem*; for every such thing a man is indictable, and punishable in this Court by Indictment. And so the offender is liable to the Parties Action for his private wrong; and for this he shall recover damages for his amends. And he is liable also to Indictment for the publike offence, which any man may promote; and for this the Offender shall be fined and imprisoned.

2. That where an offence, that was an offence at the Common-Law, is also made an offence by a Statute-Law, and a certain punishment appointed to it by the Statute: but this Statute

Statute hath not given to the Justices of the Peace any power in it; there, this offence may not be punished upon the new Statute. And therefore an Indictment for this offence, *contra formam statuti*, is not good before these Judges.

But a man is still indictable for the offence before them, as it is an offence at the Common-Law, and their Power is the same, that it was before the Statute. And so a Ryot, a *Scandalum Magnatum*; and the like offences by the Common-Law, that by some Acts of Parliament are heightened, and made greater; albeit, they be not here indictable upon the Statutes; yet are they here still indictable, as offences at the Common-Law.

3. That in Cases, where a Statute-Law doth create a new offence, where none was before; as by shooting in Guns, taking Hares, or the like. And the Statute doth not say, how the offender shall be punish'd for it, what Court shall have Conusance of it, and who shall proceed in the execution of it; there the breach of the Statute may be punished in one Court or another. For if a Statute do forbid, or command any thing, and doth not appoint any punishment upon him that doth break it; yet he may be punished for this Contempt, by Fine and Imprisonment, in one Court or another. But unless the Statute do in express terms, give to these Justices of Peace a Power to hear and determine the thing, they may not meddle with it in this Court upon the Statute, but so far forth, as it is against the Peace, and within any Article of their Commission by the Common-Law, they may meddle with it.

N U M B. V.

FOr the exercise and execution of the Power of the Justices out of their Sessions, they do this many ways, and by many means. Sometimes in a special Sessions, upon a forcible Entry, or the like; their proceeding herein is somewhat after the manner and order of their proceeding in the General Sessions. But otherwise, their proceeding and way for the doing of their work is by *Warrants, Mutinus, Recognizance, Certificates, Examination, Confirmation, License*, and the like.

Warrants of Justices.

For their Warrants out of Sessions, they do issue them out in such like Cases as these.

Rogues.

About Rogues, and Vagabonds. } To attach them.
To pass them.
To send them to Bridewell.

Peace and good Behaviour.

About the Peace, and good Behaviour. } To require them to give Sureties.
To send them, refusing, to Gaol.

Riots, Rout, Forcible Entry.

About a Riot, Rout, &c. or forcible Entry, or Detainer. } To summon a Jury.
To call for the Sheriff for *Posse comitatus*, to suppress it, make an Order, send for, and punish such as refuse to obey it.

Bastard, and the reputed Father.

About a Bastard, and the reputed Father of it. } To call the Parties and Witnesses before them to examine the matter.

ABOUT

About a Felon and Felony, or a Traytor and Treason. { To bring the Felon before him. ^{Felon.}
 To search for stollengoods.
 To give Evidence against the Felon.
 To apprehend, and to commit him.

About Ale-houses, to execute the Penalties of the Statutes; And for Drunkenness and Tippling: Not keeping the Assizes, &c. selling without License, &c. ^{Ale-houses, and Drunkenness.}

About the Poor. { To call in the old Overseers.
 To make new Overseers.
 To confirm the Rate for them.
 To levy the Money rated.
 To settle, or send, a poor Person to his place. ^{Poor.}
 To send to Bridewell.
 To send to Prison, for lack of Distress.
 To levy the Penalty, for neglect in their Office.

To call Victuallers, and Ale-house-keepers in, to enter into Recognizances. ^{Victuallers, Ale-house-keepers.}

To levy the Penalties of the Statutes, for profaning the Lord's Day. ^{Lords-Day.}

About Servants, Masters, and Apprentices, in many particulars. ^{Masters and Servants.}

For refusing Apprentices, placed with them. To bind Apprentices. To command the idle to go into service. To punish naughty Servants, Masters that abuse servants, pay not wages, and in other cases.

Dangerous Warrants to be made by a Justice.

But for a Warrant from a Justice, to bring a man to him; To answer all matters objected. To send to take one for Couzenage. To take, and bring to a Justice, or to Gaol, one that another doth suspect of Felony; especially, where the matter is small, or suspicion sleight.

Unlawful Warrants.

To License a Petty-Chapman to sell from house to house. To send a poor body to a place, otherwise then the Law directs, and the like: We look upon these Warrants, as unwarrantable.

Mistimus of a Justice.

2. By *Mistimus*: And so they do usually make a *Mistimus* in these following Cases. To send a Felon to Gaol. To send to Gaol one that hath dangerously hurt a man; and in many other Cases.

Peace and good Behaviour.

To send to Gaol, all such as refuse to be bound for the Peace, or good Behaviour, or other Case, where by Law he ought to be bound with Sureties, or otherwise, as to appear at Sessions, or the like.

To supersede a Warrant, or discharge such as are bound.

Bail.

To take Bail of a Prisoner; and then to require him to be discharged of his Imprisonment.

Watch & Ward.

To call upon Officers, to keep Watch and Ward.

All these, and many other such like Warrants, the Justices have power to issue out, and do grant out of Sessions.

Taking Recognizances.

3. They execute their Office out of Sessions also, by taking of Recognizances. And so they use to take Recognizances in these following Cases.

For

For the Peace, For the good Behaviour. For keeping good order by an Ale-house-keeper. To appear at Sessions, to answer an offence. To prefer an Indictment, and give Evidence at Sessions. To bail a Prisoner; and in other Cases.

4. So by giving of Licenses; as to Badger ^{Licenses;} to badge, or Drover to drive Cattle. To a poor person to pass, and some others.

5. Something they are to do out of Sessions, ^{Confirmation.} by way of Confirmation. So they confirm the Rate for the Poor, High-ways, and others.

Some of their work lyeth in taking of Infor- ^{Information, Ex-} mations and Examinations: As Informations ^{amination,} against a Felon, and other offenders in many Cases. The taking of the Examination of one that hath been robbed. The examination of a Felon, and the like.

7. Somethings they do out of Sessions, by ^{Certificate, or} Certificate, or Testimonial: as about a Trained ^{Testimonial,} Souldier, about a Vagrant, and the like.

8. Something they do by way of Release, or ^{Release, or Dis-} Discharge. So they do release the Peace, or good ^{charge.} Behaviour, in some special Cases. So they discharge their own Warrants, and mens obedience to them.

We shall descend to all these Particulars after a while, and speak further to them apart, and by themselves, after we have laid down some general things, referring to the Office.

S E C T. IV.

Of the power of the Justices of the Peace in general.

N U M B. I.

How der ved, &
come to them.

AS to this Point, it is to be known, That the Justice of Peace his Power, is derived and given to him two ways.

First, By the Common-Law, as it is given to him by the Commission of the Peace; the which, in general, is to keep the Peace of the Country.

Secondly, By divers Acts of Parliament; some of which are for the punishment of divers offenders, for offences by them done. And some of them for doing of other things, necessary to be done, in order to the Government of the Country, as for the making of Officers, setting, and regulating of Rates, and the like. And so their Office generally lyeth in this, to relieve the oppressed against the Oppressors, 4 H. 7. Chap. 12.

N U M B. II.

Over whom it is

THE Power that the Justices have in their County, is over all persons there-in (except onely their fellow-Justices, and the Corporations, or other places in the Country that are exempted, having Justices of Peace amongst themselves.) And therefore one Justice may not

not amerce another Justice, for his not appearance at Sessions; as the Judges may amerce the Justices for their not appearing at the Gaol-delivery; nor can one of them imprison another, *Inter pares non est potestas.* And yet a Justice is indictable at the Sessions, for an offence, as another man is; and there he may be committed for the breach of the Peace, *Lamb. 385. Tenth Century, Page 174. 3 H.7. Fitz. Justice of Peace 3.*

NUMB. III.

3 **T**HE Power of the Justice, may some of it be acted in any place out of the County; but some of it not. So a Justice may take the Oath of a man robbed, touching his knowledge of the Party that robbed him. So he may take a Recognizance, by Supplicavit, in any place out of the County. So he may take Informations against Malefactors, for any thing done within the County; in cases where any man will voluntarily give these things. But he may not exercise any coercive Power; as commit for Felony, or other offence, to Prison; take a Recognizance, make an Order about a Bastard Child, or prosecute upon it; or about Labourers, in any other such like thing, out of his own County, upon 18 Eliz. or upon 5 Eliz. Croo. 1. 153. Mich. 7 Jac. B. R. *Reve's Case.*

Where it may be exercised; and used.

NUMB. IV.

Sessions, when to
be kept, and
where.

4 **T**HE General, or Quarter-Sessions, to be kept for the County, is to be kept but once a Quarter; and this at the times appointed, and now used. But it may be kept in any place of a County, where it is not by some Act of Parliament, to be kept in a certain place of the County. And the Special, or Privy Sessions, may be kept oftner, as the Justices please.

NUMB. V.

Wherein the Justice Office lyeth.

5 **B**Y all that hath been said hitherto then, it appeareth, That there are some things about the Office of the Justice, that doth reier to Spiritual, or Ecclesiastical Matters. Such as these, *Preachers and Preaching, the Book of Common-Prayer, coming to Church, the Sacraments, the Ceremonies and Rites of the Church, Special Meetings to holy use, Quakers, Conventicles, Oaths, Declarations and Subscriptions, about Matters of Religion, Lords-Day, Holy-Days, Fasting-Days, Churches, Chappels, Church-yards, and such like matters.*

X But for the pretended Acts and Ordinances concerning Blasphemy, Heresie, upon August 9. 1650. May 2. 1448 August 21. 1645 September 17. 1656. February 9. 1646 April 6. 1644. April 19. 1650. June 22. 1650. These are now out of door, and the Justice of Peace, by his Office, hath nothing to do upon them.

The rest of his Office, is about Civil and Secular Affairs: As about the Peace of the Kingdom, wherein he is to take care, as to prevent the breach of it; before it be made; so to punish it, when it is broken. And for this, the Justices, as they are come in the Room, so they have the name of, *The ancient Conservators of the Peace*. And so he hath power to punish divers Offences; as Felonies, Ryots, Routs, and the like, that tend to the breach of the Peace; and to do many other things, for the better government, and ordering of the County. And his Power, for the doing hereof, is to be exercised, and executed by him; partly, in the Sessions; and partly, out of the Sessions.

And in the Sessions, any two Justices, *quodammodo*, may do all that is to be there done, save onely some few things, that by the Letter of some Statutes, is directed to be done by more then two Justices.

But these Justices have no power, either in, or out of their Sessions, to punish Offenders by Witchcraft, by 1 Jac. 12. Nor Offenders, by multiplication of Gold; or about Sheep; or a Congregation of Masons, by 5 H. 4. 4. 3 H. 6. 1. 8 Eliz. 5. Nor the offence of a Souldier, conveying away Horse and Arms, &c. by 3 H. 7. 7. 31 Eliz. 4. Nor the offence of levying a Fine, suffering a Recovery, entring into a Statute, &c. in another man's name, by 3 H. 7. 11. 3 Jac. 4. and some other offences; as by 8 H. 6. 12. 5 H. 4. 4. 21 Jac. 26. 3 H. 6. 1.

NUMB. V I.

6 **A**Nd there are these things further to be known, as touching the Power and Duty of this Officer, in the general ; especially upon the Statutes.

Exposition of
Statutes.

1 That where a Power is given to him, to commit to Gaol, he may not commit to *Bridemell*. And so on the other side, If Power be given to commit to *Bridemell*, he may not commit to Gaol. If power be given to him to commit for three days, he may not commit for longer time then three days. But if power be given to him to commit to Prison, and say not how long he may commit to Prison by this, till by Law he be discharged, which he may be at Sessions.

2 That regularly, what the Justices have power to do, it is their duty to do. And what is their duty to do, is in their power to do.

3 That what any private man, or inferior Officer may do, to the keeping of the Peace, this Officer may much more do.

Ayd to Justices.

Pesse Comitatus.

Power of Justices in Sessions.

4 That any Justice, in the execution of his Office, to apprehend Felons, keep the Peace, and the like, may require the assistance, of what able men he pleaseth. And they being so required, must do it, or they may be punished for their Refusals.

5 That the Justices, may not in, or out of Sessions, mitigate the Fine, or Penalty, appointed by any Statute-Law for an offence done ; as for Swearing, or the like. And yet in such cases, the Offender, by a special Plea, and submission,

fion, before he hath pleaded, *Not Guilty*, or any other Plea, may have ease. *Resol. Judges, 1633.*

6 That for such Acts, as are done in the Publicque Sessions, no Action may be brought against any of the Justices that do it. And yet if any man be grieved with such an Act, he may have it altered, or amended; or he may have help in the *Kings-Bench*, upon his Appeal thither. But for such Acts, as the Justice shall do out of the Court of Sessions, the Justice will be as liable to Action, as another man. And therefore, it will concern him to be cautious therein.

Action against Justices.

Caution to Justices.

7 That where fewer Justices may, in, or out of Sessions, do a thing; there more Justices, in the same way and place, may do the same thing. But where the Law doth say, a thing must be done by more, it may not be done by fewer Justices, *Bulstr. 247.*

8 That where one, or more Justices, may do a thing out of Sessions, there the same Justices, may do in the same way and manner, the same thing in the Sessions, if the Sessions be kept within the County. And yet where a new offence is made by a Statute on a Penalty, and one, or more Justices, have power out of Sessions, to punish such an offence, wherewith the Justices, by the Common-Law, have nothing to do in Sessions; it seems they may not punish it there by the ordinary way of Indictment, &c.

9 That where a thing is to be done by the Justices, with the Assent of others; there Justices may not do that thing alone, without the Assent

Assent of those others, *Cook 2 Part Institut. 704.*

Mayors and Cor-
porations.

10 That what may be done by a Justice, out of a Corporation, that (for the most part) may be done by the Mayor, or other Head-Officer of the Corporation within it; as in Statute, 2 Ed. 15. 10. 39 *Eliz. 16.* the Mayor, or other Head-Officer, being a Justice; and there being a *ne intromittant* to the Justices in their Charter: but otherwise, not.

Behaviour. ➡

11 That it is not safe for a Justice, to bind a man to the *Good Behaviour*, or send him to Prison, for his refusal to be bound, upon a general Accusation or Information, that a man is a person of ill name, &c. without Information upon

Commitment.

Action against
him.

Caution to Justices.

Deputy to a Justice.

Oath. And yet if a Justice require Surety of me, in such a Case, I must give it. But if I shall be committed to Prison in this way, for refusal, I may be delivered upon my *Habeas Corpus* in the *Kings-Bench*. *Stile's Rep. 16.* And, perhaps, an Action of false Imprisonment may lye against the Justice for it. It will therefore be the wisdom of Justices, to be wary herein.

12 That a Justice may not make a Deputy to take Surety of the peace of a man, and to send him to Gaol for his refusal, 9 *Ed. 4. 13.*

Imprisonment of
a Felon.

Place of Imprisonment.

13 That where a Justice doth arrest a man for a Misdemeanour, &c. in a Case where he is to find Sureties, the Justice may commit him to Prison, without demand of Sureties. For the Prisoner is to tender Sureties to the Justice, 14 *H. 7. 9.*

14 That a Justice cannot detain a person, suspect for Felony, more then three days, or thereabouts, whil't he may examine him. And that he may not for this time keep him in his house

house, but must commit him to the Common-
Gaol of the County, *Croo. 1. last publish'd,*
830.

Approver.

15 That where one is indicted before a Ju-
stice, and doth confess the Felony, they may
not assign him a Coroner, if he become an Ap-
prover, *Croo. 10. 77. 2 Ed. 4. 19.*

Discharge of a
Prisoner.

16 That where a Prisoner is committed by
the Justices, without a Writ, upon a Suggestion,
or the like, there the Justices may discharge
him. But where he is committed by Writ,
there he must be discharged by Writ, 14 H.
6. 8.

Not hear and de-
termine in one
day Oyer and
Terminer.

17 That Justices may not enquire, try, and
determine Criminal Matters before them all in
one day, as *Commissioners of Oyer and Terminer*
may do, *Croo. 1. 316 327.* And yet it is
usual for Justices of Peace so to do, *Ideo*
Quare.

New Inquest.
Juries.

18 That the Justices may in their Sessions,
charge the Concealments of a former Inquest
taken before them, upon a *New Inquest*, by 3 H.
7. 1.

Juries.

19 That the Justices, in their Sessions, may
control the Pannel, returned by the Sheriff, to
enquire for the King, by 3 H 8. 12.

Extortion.
Fees of a Justice.

20 That if a Justice take more then his due
Fee, for any thing he doth about his Office, that
this is Extortion. And he may be punished
for it, as another Officer may be punished.

Pleading by a
Justice.

21 That where a Justice is sued, for doing
of any thing in his Office, he must be sued in
his own County where he dwells, and is Ju-
stice; and he may plead the general Issue to it.
And if the Verdict be for the Defendant, Ju-
stice;

Costs.

Warrant to
break a house.To take a Fel-
lon.

stice; or the Plaintiff be *Non-suit*, or discontinue his Action, that the Defendant shall have double Costs against him, by 7 Jac. 5. See Cook, 2. part of his *Instit.* 174.

Justice, or Justices; one, or more Justice, cannot make a Warrant, upon a bare surmise, to break any man's house, to search for a Felon, or for stolen goods. But if the Party suspected be indicted, then the Sheriff, by force of the King's Writ, may demand the Party indicted to be delivered; and this not done, may break open the house, and apprehend the Felon, Cook, *Instit.* 2 Part. 177.

Nor may a Justice of Peace make a Warrant to take a man for Felony, unless he be indicted thereof, and that must be done in open Sessions. For the Justice himself cannot arrest one for Felony, unless he himself suspect him, as another man may do; and therefore may not make a Warrant to arrest.

And if any person be charged with any Felony, and Information is given to a Justice of the suspicion; if he fear the breach of the Peace, in the apprehension of him, the Justice may make a Warrant to the Constable of the Town, to see the King's Peace kept in the apprehending, and bringing of the Party, charged or suspected, before him; and the Party that giveth the Information of his knowledge, or of his suspicion, he is to be present, and to arrest the Delinquent; And he may not break open the house to do it; but the door open, he may go in. See for all these, Cook, 2 Part of his *Institutes*, 177.

SECT. V.

Of the Justices of Peace power, to proceed against Offenders, in, or out of Sessions upon the Statutes; And of the Exposition of the Statutes.

NUMB. I.

THE Justice of Peace, as he is to be very careful what he doth, and especially, how he sends his Warrant to Arrest or imprison any man, in any case, but where he hath a clear Authority; so is he, especially, to be careful, where he doth it, under colour of a power given to him by an Act of Parliament. And that he do pursue the Order and Direction of the Statute therein, viz. That where he is to commit to Prison, that there he do not commit to the Stocks, or to Bridewel. And so on the other side; For if he do the Commitment to that place, is unlawful. And so for the Time, where the Law gives power to commit for a time, that he do not commit for a longer time; for if his power be to commit three days, and he shall commit for four days, or longer; this is an unlawful Imprisonment, after the three days; yea, perhaps, unlawful for the three days also.

Exposition of Statutes.

2 That where a Statute is, That the Justices in their Assizes, or in their Sessions, shall hear, inquire, and determine of an offence; this shall be understood, in the ordinary course, by Indictment, &c. But where a Statute saith, any thing

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thing shall be examined before one, or more Justices, and say not where; this may be before them by Witnesses out of Sessions. So for the *Statute* of 23 *Eliz.* 10. about *Partridges, Bulstr.* 2 Part, 176.

3 That where a *Statute* made for the punishment of any offence, doth, in any part, give any express power to the Justices of Peace, to do any thing in it. As 1 *Jac.* 12 *H. 6.* 12. 21 *Jac.* 29. and others. There the Justices can do no more therein, then they might have done before the making of the Act. *Croo.* 2. 643. And yet if the offence to be punished, were an offence at the *Common-Law*, punishable by the Justices, as a Ryot, Per ury, or the like, they still retain that power, as before. But the Offender may not betwice punished for the same offence.

4 That where such a *Statute* gives a power to one, two, or three Justices, in a special way out of Sessions, to convict and punish offenders of that offence, that was not an offence before the making of the *Statute*; or, that if it were an offence, it was a Spiritual offence onely. And the same, or some other *Statute*, doth not give any power to the Justices of Peace, to do any thing in it, to hear, or determine it, or the like. There the Justices may not intermeddle with it in their Sessions. And therefore, if in such a case, the power given to the Justice, to punish the offence out of Sessions, be defective (as in some Cases it is) then is the offence punishable. And therefore it is usual in Acts of *Parliament*, to give a general power also to the Justices, to hear and determine the offence, in such

such Cases, and so is 23 *Eliz.* 10. 39 *Eliz.* 4. 4 *Jac.* 5. and many others. It is therefore conceived, That the Justices of the Peace, may nor, in their Sessions, receive an Indictment against a man for Swearing or Curfing, upon 21 *Jac.* 20. Or, for work done upon the Lord's Day, upon 1 *Car.* 1. Nor may Justices do any thing more, about a Bastard-Child, then what they have an expresse power to do upon the *Statutes*, of 18 *Eliz.* 3. 7 *Jac.* 4. Nor may they do any thing more about the Laws, touching *Partridges*, *Hares*, *Guns*, *Pewter*, *Brass*, *Wine*, *Vessels*, and the like, then what the *Statutes*, in expresse terms, give them power to do. But for many offences, men were indictable here by the *Common-Law* before the Justices, before the making of the Statute; and so they are indictable, after the making of the Statute, as they were indictable before the making of the Statute.

4 That where a Power is given by a *Statute*, to Justices of the Peace, to do any thing, and it is not said, where, or how the thing shall be done, there (it seems) the thing to be done (especially, if it be to convict an Offender of any offence) it shall be done in the Sessions of the Peace; and therein, and by the ordinary way of Indictment, Presentment, &c. And then to make a Sessions, there must be two Justices, *quorum unus*, at the least. But where the *Statute* doth say, That the thing to be done, may be done without the Sessions, and that any Justices may do it; there, it seems, there must be two Justices to do it. If the *Statute* say, That every Justice, or any Justice, or any one Justice may do it; in these Cases, it may be done by

by any one Justice of Peace. And where it doth say, That the thing is to be done by [or before] one, two, or more Justices, there it must be done accordingly. But, in some Cases, the Law, perhaps, may be otherwise.

5 That where a *Statute* doth say, That one or two Justices may do a thing; there, it seems, to be clear, that more Justices then one, or two, may do it. But where the words are, That one, or two Justices shall do it, there it may be a little doubtful. And yet this seems to be the same with the former, and that the Law will be the same in both Cases.

6 That some *Statutes* are penned thus, That the Justices shall have Authority to do. Others, That they shall do. Others, That they may do. Others, That they may put the *Statute* in Execution. Others, That they may take the Conviction, and do Execution. Others, That they may punish the offences, upon the *Statutes*. Others, That upon Oath taken before them, the Forfeiture to be levied by the Justices, &c. Others, That the thing shall be done before them. See 4 *Jac.* 5. 24 *H.* 8. 10. 21 *Jac.* 27. 5 and 6 *Ed.* 6. 4. 11 *H.* 7. 15. 4 *Ed.* 4. 1. 1 and 2 *Ph.* and *M.* 2 and 3 *Ph.* and *M.* 16. These it seems, are all to one purpose; and, probably, may give power (if it be to punish an offence) to do it in the Sessions, by way of Indictment &c. If it be to do some other thing, it may be done by them some other way or other.

7 Some *Statutes* say, That a thing shall be done

done at the Quarter-Sessions. Others, at the open Sessions. Others, at the principal Sessions. Others, at the General Sessions. Others, at the publick Sessions. Others, at the usual. Others, at the ordinary Sessions; and others at the Sessions onely. So 5 *Eliz.* 4. 2 and 3 *Ed.* 6. 15. 25 *H.* 8. 13. 2 and 3 *Ph.* and *M.* 3. 4 *Jac.* 5. 4 *H.* 7. 12. 21 *Jac.* 21. 39 *Eliz.* 17. 24 *H.* 8. 10. 1 *Jac.* 27. 3 *Jac.* 13. 5 and 6 *Ed.* 6. 4. 14 *H.* 8. 10. 19 *H.* 7. 11. And for these Cases, it seems clear, that in every one of them, that which is to be done, must be done within, and may not be done without the Sessions. And in all the Cases, but in the last, it seems to be intended, that the thing to be done, is to be done at a Quarter-Sessions. But in the last, and where a *Statute* saith, A thing is to be done at a Session; or at any Session; there, perhaps, it may be done at any special Sessions, held for that purpose. And yet there, perhaps, it may be safest to do it at the Quarter-Sessions.

8 That where a *Statute*, besides the general power of *Oyer* and *Terminer*, of an offence given to the Justices, doth add this Clause, That the Justices may divide themselves, and by all means, according to their discretion, make enquiry upon the *Statute*, and the Execution thereof, and punish the Defaults; as upon 5 *Eliz.* 4. of Masters and Servants; there all the power the Justices have by these words, it seems, is, to keep a special Sessions, and there proceed against the Offenders, in a Sessions-way onely.

In the Sessions.
Bridewell.

9 That where a *Statute*, besides the general power to Justices, to hear and determine an offence, doth give a further special power to them, to give such correction to the Offender, as they think fit, as in 5 *Eliz.* 4. about Masters and Servants, there it is not very safe for Justices, to bind to the good Behaviour, or to send to *Bridewell*, upon these words: but to do that they do, in this, in their Sessions.

10 That where the words of a *Statute* be, that the Justices shall cause a Distress to be taken, or cause an Offender to be imprisoned, or the like thing to be done: as it is in 24 *H.* 8. 10. there it seems to give a good Command and Authority to the Justice, to do the thing; and that he may make his Warrant to an Officer, or some other, to do the thing.

11 That where a *Statute* shall say, That the Justices may [or shall] do a thing; but doth not say, where they may [or shall] do it; there (if it be to punish an Offence) it must be within the Sessions. But if it be to make a Rate, or to do some other thing, then to punish an offence, it may be done as well without, as within, the Sessions. So 39 *Eliz.* 4. of *Bridewell*; and 17 *Eliz.* of Mariners.

12 That some *Statutes* do give a power to Justices only to enquire of Offenders and Offences. Others, To enquire as well at the Suit of the King, as of the Party. Others, To charge the Juries before them to enquire. Others, That the Offences shall be enquirable before them. Others,

Others, That they shall enquire by Presentment. Others, That they shall enquire, and set Fines. So 7 H.6.5. 8 H.6.5. 9. 1 Ed.6.5. 12 Ed.4.9. 4 Jac.5. 1 H.8.7. 2 and 3 Ph. and M. 8. 5 Eliz.13. 24 H.8.10. 25 H.8. 13, 14. 15 H.8.10. In these Cases, it seems they have power to hear and determine the Offence. And yet if a *Statute* give to Justices power onely to enquire of an offence, and no more; some think, that they have power onely to take a Presentment of the Offence, and then they are to send the Presentment into the *Kings-Bench*. See *Lamb. Just.* 12.

13 That where a *Statute* doth give power to Justices, to hear and determine an offence, and doth not say, in what way it shall be done, there it must be done in the ordinary way of Indictment, &c.

14 That some Statutes say, as touching Offences, That the Justices may [or shall] hear and determine them. Others, Enquire, hear, and determine them. Others, Examine, hear, and enquire, Others, hear, and determine them. Others, Examine, hear, and determine them. Others, Examine & determine them. Others, hear, or [in the Disjunctive] determine them. Others, Determine them. And some of these have also divers Additions, of other words to them. As that they may [or shall] do it by Verdict. Or, That they shall do it by Examination, or otherwise. Or, That it shall be by Witnesses, or by two lawful Witnesses, or by Confession. Or, that it shall be upon Presentment. Indictment, or Information. Or, That the Justices shall
E 2 call

c all the Parties before them, send out Process, give Judgment, punish, do Execution, and the like. So 5 and 6 Ed. 6. 4. 14. 27 Eliz. 7. 2 and 3 Ph. and M. 3. 7. 5 Eliz. 4. 5. 9. 21. 4 Jac. 5. 1 Jac. 22. 27. 2 Jac. 13. 2 and 3 Ed. 6. 2. 10. 23 Eliz. 10. 17 Ed. 4. 1. 1 Ed. 4. 21. 18 Eliz. 10. 22 H. 8. 5. 31 Eliz. 12. 1 Eliz. 17. 32 H. 8. 13. 4 Ed. 4. 1. 33 H. 8. 1. 1 Ed. 6. 1. That all these (as it seems) are to to one purpose; and the Justices, by every of them, have power to hear and determine the Offences within the Sessions. But the additional words may also give them a power to do something therein out of the Sessions.

In the Sessions.

Out of the Sessions.

15 That where a Statute is thus penned; That he that shall so offend, shall forfeit such further Penalties, as by the Justices shall be thought fit, not exceeding 40 s. a piece: As it is in 7 Jac. 4. And there is no way set down, to convict or punish the Offender there, if any thing be to be done, it must be done in open Sessions; and it is doubtful, what more then 40 s. Penalty may be inflicted.

In the Sessions.

16 That where a Statute saith, The Conviction may be by Confession of the Party, or by Verdict, upon a Prefertment, or Indictment; it seems this Confession shall be understood, upon an Indictment in pleading, and not before a Justice out of the Court. But where a Conviction may be, before one or two Justices, by a Confession, or proof of Witnesses, &c. out of a Sessions, there it shall be taken otherwise for a Confession, before the Justices, without Indictment.

17 That

17 That where a Statute gives to Justices power to examine a matter, and if he suspect to bind the Party and Witnesses to the Sessions; that, in this Case, it seems warrantable so to do. See 33 H. 8. 6. *Coo.* 5. 72.

18 That some Statutes say, That the Justices may [or shall] punish an offence, according to their discretion. Others, Fine or Imprison, according to their discretion. Others, Fine and imprison, according to their discretion. So, 7 Jac. 4. 17 R. 2. of Fish. And these are conceived to be of like extent; and that they do each of them give power to the Justices, to hear and determine the Offences named in the Statutes, according to the Law, by which their discretion is to be guided. See *Coo.* 2 Part of his *Inst.* 171.

Discretion

19 That where the words of the Statute run thus; That the Justices, at their Quarter-Sessions, shall have power to indict, and try the Offender, by the usual course of Indictment and Tryal, in like Cases; and, after such Conviction, to adjudge the Offender to the Pillory. So, 39 Eliz. of *Logwood*; there (it seems) the Justices have a power of *Oyer* and *Terminer*, of that offence, by these words, and to inflict the punishment appointed; and that they may not inflict any other punishment, than what is appointed.

20 That where the Statute is thus; That he that shall offend, shall be grievously punished, according to the discretion of the Justices; and

that they shall adjudge him to the same bodily punishment, as his Offence requireth, and shall do Execution thereupon. So, 13 R. 2. 8. of Labourers. There haply the Justices, upon a Tryal and Conviction, may commit him to Prison, for what time they think fit; but not punish with any greater corporal punishment.

By Examination.

Oath.

21 That where an Act of *Parliament* saith, That the Justices may [or shall] hear, and end, an Offence by Examination, according to their discretion. Or, (as others) by Examination of Parties and Witnesses. So 32 H. 8. 13. of Horses, 11 H. 7. 15. of Sheriffs, 19 H. 7. 11. of Deer. In these Cases, it seems, the Justices have a power of *Oyer* and *Terminer*, in the ordinary way. And, if out of Sessions, then it is doubted, if they may do it by Oath; except it be, where they might have given an Oath before the Statute. And yet (it seems) they may; as upon 18 Eliz. about a Bastard: The words of which Statute are the same, in effect, with this Statute.

22 That where the Statute is penned thus: Under pain of Ten Pounds; the one half to the King, the other half to him that will sue, &c. by Action of Debt by Examination before the Justices of Peace, Information, or otherwise. So 11 H. 7. 17. of Pheasants, &c. In this Case, it seems doubtful, what is to be done, by the Justice of Peace.

23 That where the words are, That the Offender (being convict of the offence, by Examination

nation of Witnesses, or Confession, before the Justices of Peace, at their General Sessions) shall suffer, &c. And that two Justices, *Quorum unus*, may convent him to Sessions by Process ; or, otherwise, commit him to Ward, or let him to Bayl, till the next Assizes, or General Sessions, there to be examined; and further ordered as aforesaid. So 33 H. 8. 1. There, it seems, is given to the Justices a General Power of *Oyer* and *Terminer*. And, perhaps, the Justices may do something without oath, out of Sessions, by force of the latter words.

24 That where a Statute, in one part of it, doth give power of *Oyer* and *Terminer*, of an offence : And in another part of it, is this Clause , That any two Justices, out of Sessions, may examine, hear, enquire, and determine, and administer Oaths, &c. So 1 Jac. 27. of Pheasants, &c. In this Case, the Justices may hear and determine the Offence in Sessions. And two Justices, may also, by Examination of Witnesses, hear and punish it out of the Sessions.

25 That where a Statute gives power to the Justices out of Sessions, to distrain the goods of an Offender, or send him to the Prison for his Offence ; but no way is set down for the Conviction of the Offender, as is, 43 Eliz. 2 & 3. 13 Eliz. 10. 5 and 6 Ed. 6. 25. 1 Jac. 9. 21 Jac. 7. 4 Jac. 5. 1 Car. 4. There, if there be no general words, to enable them to hear and end it, and it be a thing not within their *Commissance* before, that there is no way to punish the Offender. And so also it is, where the Statute

gives a power of Conviction, but no way of Execution; as in 2 and 3 *Ed. 6.* about Souldiers, 21 *Jac. 18.* of Cloth. So where the Statute doth not appoint a way for Conviction, or Execution; as 7 *Jac. 4.* 21 *Jac. 28.* But if there be a power of *Oyer* and *Terminer* in the Justices, then they may do it in Sessions.

Oath.

26 That where a Statute doth say, The Conviction of an Offender shall be before the Justices, by the Proof, or by the Testimony of Witnesses, but doth not say upon Oath. So 21 *Jac. 18.* of Cloth, 39 *Eliz. 4.* of *Bridewell*, 24 *H. 8.* 10. of Crows: There it is doubted by some, Whether it may be by Oath out of Sessions; and yet others think it may be by Oath. But where it saith, That the Conviction may be by Oath, before one, or more Justices; but doth not give them power to administer the Oath: There, it seems, the Justice, or Justices, may administer the Oath, 27 *Eliz. 13.*

27 That where a Statute is penned thus; That upon Proof, or Oath, or Confession of the Offence, before a Justice of Peace, [without more words] such a punishment shall be inflicted, or such a thing shall be done. So 3 *Car. 1.* of Swearing; There, it seems, the Justice may take the Conviction, and give Warrant for the Execution. And so, it seems, if the Statute run thus; That, unless such a Proof be made before the Justice, no punishment shall be inflicted. By this, the Justice hath power to do the thing; as it is in 27 *Eliz. 13.* to take the Oath of one that is robbed. *Cock, Insti.* 2, 689.

In

in all these Cases therefore, and upon these Varieties and Ambiguities, these things are to be observed :

1 That in all Cases, where there is a good power given to Justices, by any *Act of Parliament*, to hear, and punish Offenders, for an offence there done, there must be a precise certainty, by the words of the Law, that doth give this power to them, in all these following Particulars.

Exposition of
Acts of Parlia-
ment.

First, As to the Persons, and number of the Justices themselves, to whom the power is given, Whether to be done by one, or not by less than two, or not by less than three Justices. And some things cannot be done by any Justices, unless one of them be of the *Quorum* : And so it must, and cannot otherwise be done. And where it is to be done by two, or more, there one may not do it. Where therefore a Statute appoints a Commitment for an offence, (as some Statutes do) and doth not say, who shall commit ; it will be dangerous for any Justice, to commit in such a Case out of Sessions. And if the power be given to two, or more Justices, to do it, and one alone doth it, this is unlawful, and the Party may have his Action of false Imprisonment against him. And yet Judges of Courts, where three in Court, may do any thing by two ; the difference is, in this, where things are done ministerially, and where judicially, *Bulstr.*

3 Part 77. 14. H. 4. 34.

2 There

2 There must be a certainty, as to the place wherein he is to proceed : For some Statutes say, He shall do it ; but they do not say where : Some in the open , some in the Quarter, some in the usual, some in the principal, some in the publique, some in the ordinary Sessions, some in the Sessions, and some in any Sessions ; and all these are sufficiently certain.

3 As to the words, by which the power is given. For some Statutes say, They shall have power. Others, They shall do the thing. Others, That they may do the thing. Others, That the thing may be done before, or by them. Others, Such a thing to be done by the Justices of the Peace, &c. And all these seem to be certain enough, and to give to the Justices, clearly, a power to do the thing appointed.

4 There must be a certainty, as to the Matter , and manner, and way of Conviction. And for this (as it hath been shewed) some Statutes give the Justices power to inflict the punishment ; but appoint no way of Conviction of the Offender. Some Statutes set down a Penalty, and say, the Justices shall hear and end it, and do not say how ; and there it must be in the ordinary way. Others say, That the Conviction may be by the oath of Witnesses, or of one Witness, or by Oath onely. Some, by the hearing, view, or sight of the Justice. Some, by the Confession of the Offender. Some, by Proof [or upon oath] of Witness, or Witnesses. Some, by Information. Some, by Examination : And some, by Certificate. Some, by any one. Some, by

by two or three of these ways. Some Statutes give power to administer the Oaths. And some do not give him power to administer the Oath. Some say the Conviction shall be by a Verdict of twelve men. Some Statutes give to the Justices a power to hear and determine the offence. Some, to punish the Offender. Some, to put the Statute in execution. Others, to punish Offenders against the Law. Some give a power to commit the Offender to Gaol; some to *Bridewell*; some, to distrain his goods, &c. Some, to convict the Offender, and then to proceed to execution. Others are, That the Justices shall convict the Offender, and then certify this Conviction to some other Court. And as to this, it is to be observed, that the Act of 43 *Eliz.* about the *Kings-Bench* and *Marshalsee*-money, the Forfeitures of ten shillings, by the Church-wardens, and twenty shillings by the Constable; it is appointed to be levied by Distress, and sale of goods, by Warrant from the Treasurer; but it is not said, how the offender shall be convicted. So the Fine to be set on the Treasurer, for his default, is to be set by the Justices at their Quarter-Sessions, and levied by sale of goods; but it is not said, how the Treasurer shall be convicted. So the twenty shillings Forfeiture, to be set upon the Overseers of the Poor, for their neglect, is to be levied by the subsequent Church-Wardens, or Overseers, by Warrant from two Justices, by distress and sale of goods; but the Statute doth not direct how the Overseer shall be convicted of his offence. So upon the Statute of 43 *Eliz.* for Mariners and maimed Souldiers, it appointeth, that the forfei-
ture

ture of twenty shillings, for the default of the Church-Wardens, and Petit-Constables, and fourty shillings for the default of the High-Constables, be levyed by the Treasurers, by distress and sale of goods; but doth not appoint how they shall be convicted of their offences.

And yet, perhaps, in these Cases of the *Kings-Bench*, and *Marshalse*, and Mariners, and maimed Souldiers; the Treasurers, of themselves, may levy the Forfeitures, and sums of Money in arrear, without any Conviction: for the money not paid to him, the offence is certain to him; and so in like Cases. But in these, and all such like Cases, the safe way is by Indictment in the Sessions, to convict the Officer for his neglect.

Conviction.

In Sessions.

That where a Statute appointeth a man for such an offence, to be sent to *Bridewel*, but appoints no way of Conviction; as it is upon 7 *Jas. 4.* 39 *Eliz. 4.* 43 *Eliz. 2.* there (it seems) the Conviction must be in Sessions, and may not be elsewhere; unless there be in it some special Direction to do it otherwise, as there is in 39 *Eliz. 4.*

3. There must be a certainty, as to the matter, manner, and way of Execution: And for this it hath been shewed, That some Statutes are certain, as to all the rest, but say nothing of the way and manner of Execution. So the Act of 14 *Eliz.* about the Rates of the County, for the Prisoners in the Gaol, touching the five pound Forfeiture, there is no way set down, either for the way of Conviction, or for the doing

ing of Execution. And therefore, in these, and all such like Cases, the safe way is by Indictment in the Sessions. Some Statutes again (as we have shewed) give power to the Justices to convict the Offender of his offence, and no more. And another is, to do the Execution. And so is 43 *Eliz.* 2. of the Poor, and of Souldiers and Mariners; and 1 *Jas.* 9. of Ale-house-keepers; that in such Cases, it is not safe nor needful, that the Justices should send any Warrant; or if he do, he is onely to give notice of the Conviction, (and that is necessary) to the person, that is to do execution; and then is he, *ex officio*, to do the execution.

Some Statutes again direct the Justice to make a Warrant, and say not what Warrant, whether in Writing, or by Writing, under their hands, or under their Hands and Seals. Some say not to whom it shall be directed. Others, appoint it to be directed to the Constables. Others, to the Church-Wardens. Others, to the Overseers of the Poor. Others, to two sorts of them. Others, to the one, or the other of them. And some Statutes say not to whom the Warrant shall be directed. Some Statutes appoint the Warrant to be under the Hand and Seal of the Justice, and in Writing also. And every one of these is certain enough: But the Justice must be sure to do it strictly, according to the appointment of the Statute. See 1 *Car.* 1. 3 *Car.* 1.

Warrants upon Statutes by Justices.

Caution to Justices.

2 That where a Statute gives a power to Justices, to distrain for a Forfeiture; and for lack of distress, to imprison, &c. There (if the Statute

ture of twenty shillings, for the default of the Church-Wardens, and Petir-Constables, and fourty shillings for the default of the High-Constables, be levyed by the Treasurers, by distress and sale of goods; but doth not appoint how they shall be convicted of their offences.

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Conviction.

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5 There must be a certainty, as to the matter, manner, and way of Execution: And for this it hath been shewed, That some Statutes are certain, as to all the rest, but say nothing of the way and manner of Execution. So the Act of 14 *Eliz.* about the Rates of the County, for the Prisoners in the Gaol, touching the five pound Forfeiture, there is no way set down, either for the way of Conviction, or for the doing

ing of Execution. And therefore, in these, and all such like Cases, the safe way is by Incitement in the Sessions. Some Statutes again (as we have shewed) give power to the Justices to convict the Offender of his offence, and no more. And another is, to do the Execution. And so is 43 *Eliz.* 2. of the Poor, and of Souldiers and Mariners; and 1 *Jac.* 9. of Ale-house-keepers; that in such Cases, it is not safe nor needful, that the Justices should send any Warrant; or if he do, he is onely to give notice of the Conviction, (and that is necessary) to the person, that is to do execution; and then is he, *ex officio*, to do the execution.

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Warrants upon Statutes by Justices.

Caution to Justices.

2 That where a Statute gives a power to Justices, to distrain for a Forfeiture; and for lack of distress, to imprison, &c. There (if the Statute

Warrant of Ju-
stices.

ture will bear it) the Justices may put all in his first Warrant, thus ; That the Officer [or other] shall distrain ; and for lack of distress, that he shall carry the Party to Prison, or put him in Stocks, as the Case is ; and so put all the Work upon the Officer, to take care of it.

Commitment.

3 That where the Statute is, That in case of lack of distress, the Offender shall be committed to Prison, but it doth not say by whom. So 39 *Eliz.* 11. of Logwood, 19 *H.* 7. 11. of Deer, 4 *Jac.* 5. 21 *Jac.* 7. 1 *Car.* 1. 6. there (it seems) the Statute doth intend by the same Justice, and that he may send his Warrant to commit him.

Lack of Distress,
how to have.

4 That where the Statute gives power, for lack of distress, to inflict a corporal punishment ; this lack of distress, shall be taken for lack of distress in the place where the distress may be taken, and not in another place.

Warrant of
Commitment to
Prison.

5 That where a Statute gives power to a Justice, to levy a Penalty by distress, &c. And for lack of distress, to send the Offender to Gaol ; the Justice (supposing he hath no Distress, or for the like cause) may not send his first Warrant to send him to Gaol, but his first Warrant must be to distrain ; and then for lack of distress, by the first, or by a second Warrant, to send him to Gaol.

Conviction of an
offender.

6 That where a Statute doth appoint, that a Conviction shall be by Oath of Witnesses, it is not necessary, that the Party accused be present at the

the time of Conviction. And yet haply it may be convenient so to be.

7 That where an Act of Parliament gives to the Justices Power to examine a matter, and it doth not say, where, nor how ; in this Case (it seems) the common practice, upon 18 *Eliz.* of a Bastard Child, is, that it may be out of Sessions, and upon Oath.

Out of Sessions.

Oath.

8 That where a Justice of Peace hath power to convict an Offender out of Sessions, upon View, Confession, or Oath of Witnesses, and he doth so, and the Offender is sent to Prison upon it; that in this Case the Justice is not bound to make a Record of it, as in case of a Ryor, or the like offence ; and yet it is the safest way so to do. And, in all Cases, to set down the cause of this Commitment at large.

Record of a Warrant.

We shall now descend to Particulars, and therein open all these things more at large. First, about Ecclesiastical or Spiritual Matters ; and then about Civil or Secular Matters.

CHAP.

CHAP. II.

SECT. I.

About the Church of England, and Doctrine thereof; and Ecclesiastical Jurisdiction.

Church, what it is.

WHere the Law speaketh of the Church of England, it seems thereby to intend the whole Nation, under the Profession that it maketh of the Christian Religion, the Doctrine that it holdeth forth about it, and the Discipline it enjoyeth, and useth in it.

Doctrine, what it is.

And the sum of the Doctrine of the Church of England, is said to be contained in the 39 Articles agreed upon 1562. which some say are confirmed by 13 Eliz. Cap. 12. But others say the contrary.

SECT. II.

About Ecclesiastical Jurisdiction.

vid. In br. pag. 189.

In whom it is; & how to be used and ordered.

AS to this, these things are to be known, out of the Laws and Statutes of the Nation:
I That the Ecclesiastical Jurisdiction is united to the Crown, and in the King alone, by 1 Ed. 6. cap. 2. 1 Eliz. cap. 1, and 2. 5 Eliz. cap. 1. 32 H. 8. cap. 6.

2 That

2 That the King (by the Common-Law) ^{Prærogative.} may make Orders and Constitutions for the Government of the Clergy, and deprive them, if they do not obey him, *Crook Rep. 2. Part 37.*

3 He might (by the Common-Law) have appointed Commissioners to have done this under him. *Cook 5. 9. Candrie's Case. Crook 2 Part 37.* But the Law herein is now changed.

4 By the Statute 16 and 17 *Car. 1. cap. 11.* ^{Who may fine, imprisonment, ecclesiastical Officers.} No Ecclesiastical Judge, Officer, or Minister of Justice, may award, impose, or inflict any Pain, Penalty, Fine, or Imprisonment, Amercement, or other corporal punishment, upon any person, for any Contempt, Offence, Matter, or thing whatsoever. And that no New Court to exercise such like power, as the High-Commission pretended to have, shall be set up; but that all such Jurisdictions, and all Acts, Sentences, and Decrees, made by colour thereof, shall be utterly void. What change this Law hath made in this Power, is to be enquired into. And the New Act of 13 *Car. 2.* is to be looked upon: For, by this Law, that *Act* (as to the High-Commission) is, and standeth unrepealed; but the Ecclesiastical Jurisdiction legally in, and used in 1639. in the Ecclesiastical Courts, is restored, save onely in the Imposition of the Oath, *Ex Officio*, or any other Oath, whereby ^{Oath Ex Officio.} the party swearing, may accuse, or charge himself in any criminal matter; for these are not restored, or confirmed, but excepted; and therefore the Law, in that, is still in force.

About Ecclesiastical Jurisdiction.

Oath for Side-men.

5 That no Ecclesiastical Person may give any Oath, to any *Side-man*, or others, to present or confess any thing, or to accuse himself of any crime, whereby he may be liable to any pain or punishment, under pain of one hundred pounds penalty, and treble damages to the party grieved, 16 and 17 *Car. 1. cap. 11.*

6 He that shall do any thing against this Law, is thereby disabled to execute any Office, in any Court of Justice, or any Jurisdiction, by force of Letter-Parents from the King, 16 and 17 *Car. 1. cap. 11.*

Ecclesiastical Jurisdiction.

7 It is ordained, That the Ecclesiastical Jurisdiction used, be not repugnant to the Scriptures, and Laws of God; but be to the pleasure of God, increase of vertue, and conservation of the peace and unity of the Realm, 32 *H. 8. cap. 6.* 25 *H. 8. cap. 21.* 1 *Eliz. 2.*

Doctrine of the Church.

8 In 1 *Eliz.* by which the Ecclesiastical Jurisdiction is annexed to the Crown, and the King enabled to assign Commissioners to exercise it, and to visit, reform, redress, order, correct, and amend all such Errours, Heresies, Schisms, Abuses, Contempts, and Enormities, as by any Spiritual or Ecclesiastical Power or Jurisdiction, may be lawfully used; there is this Proviso added, That none hereafter, so assigned by the King's Letters Parents, shall have power to judge any matter or cause, to be Heresie, but such as heretofore hath been adjudged and determined Heresie, by Authority of the Canonical Scripture, or the first four General Councils, or any of them, or any other General Council, wherein the same was declared Heresie, by the express and plain words of the Ca-

ncri

nonical Scriptures ; or such as shall hereafter be judged and determined Heresie by the Parliament, with the Assent of the Clergy in the *Convocation*. See 17 *Car. 1.* this, in part, Repealed ; and 14 *Car. 2.* for the High Commission.

And out of the King's Majesties Letters and Directions, to the Arch-Bishop of *Canterbury*, given the fourteen h of *October*, in the fourteenth year of His Majestie's Reign, touching Ministers, it is by His Majesty declared, to this effect, as followeth :

First, That no Preachers, in their Sermons, shall presume to meddle with Matters of State, to model New Governments, or take upon them to declare, limit, or bound out the Authority and Power of Sovereign Princes, or to state and determine the differences between Princes and People ; but that, as they have occasion, they faithfully tell the people of their Duty, of Subjection and Obedience to their Governours, Superiour and Subordinate, of all sorts, and to the established Laws, according to the Word of God, and the Doctrine of the Church of *England* ; as it is contained in the Homilies of Obedience, and the Articles of Religion, set forth by publick Authority.

Secondly, That the Ministers be admonished not to spend their time and study, in the search of speculative and abstruse Notions, especially in, and about the deep Points of Election & Reprobation, the incomprehensible manner of the

Directions touching Ministers.

Concurrence of God's Free-Grace, and Man's Free-Will, and such other Controversies as depend thereupon. And that howsoever, they do not presume positively, and doctrinally, to determine any thing concerning the same.

3. That they forbear in their Sermons, ordinarily, and causlessly, to enter upon the handling of any other Controversies of less moment and difficulty. And when, occasionally, they be invited by their Text, or Auditory, to fall in to them, that they do it with all modesty, gravity, and candor; asserting the Doctrine and Discipline of the Church of *England*, from the Cavils and Objections of such as are Adversaries to either, without bitterness, railing, jeering, or other unnecessary or unseemly provocation.

4. That Ministers catechize the younger sort, according to the Book of Common-Prayer. And, in their ordinary Sermons, do chiefly insist upon Catechetical Doctrines (containing the necessary Truths of Christian Religion) and setting forth withall, what influence such Doctrine ought to have into their Lives and Conversations; and stirring up the People, by their Life and Doctrine, to the practice of such Religions and Moral Duties, as are the proper Results of the said Doctrines; as Self-denial, Contempt of the World, Humility, Patience, Meekness, Temperance, Justice, Mercy, Obedience, and the like; and to hate and shun sin, especially the Sins so rife and common amongst us; and especially those, usually styled the

the Seven Deadly Ones, and all kind of Debauchery, Sensuality, Rebellion, Prophaneness, Atheisme, and the like. And that where there is any Exercise in the Afternoon, that there it be specially spent, in explaining some part of the Church-Catechisme; or some Scripture that may lead to the handling and explaining of it; or that may conduce to the Exposition of the Liturgy, and Prayers of the Church.

5. That they labour with their People, to draw Lords-Day.
them off from idle, debauched, and profane courses, and perswade men to frequent Divine Services Sabbath-Days, and other Festivals, appointed to be kept solemn. And if any haunt Alehouses and Taverns this day, or use any unlawful Sports this day, the Minister is to exhort them who are in Authority, in their Parishes, to look after it, and punish it, and all those that abet, entertain, and receive them. See the Articles of Religion, *Chap. 3. Sect. 2.*

SECT. III.

About Doctrines and Opinions.

AS to this, these things are to be known out of the Laws and Statutes of the Nation.

1. That it is said by some, that the Doctrine of the 39 Articles, mentioned in 13 *Eliz.* is the sum of the Doctrine of the Church of *England*, and confirmed by Law.

The Penalty for maintaining of Doctrine against the Articles.

2. That if any Ecclesiastical Person shall advisedly affirm or maintain any thing repugnant to any of these 39 Articles of Religion; and being convented before the Ordinary, shall persist therein, and not revoke his Opinion; or, after Revocation of it, shall return again to it, he is to be deprived of his Ecclesiastical Promotion, 13 *Eliz. cap. 12.*

Subscription to the Articles, and other things required of him, that is admitted to a Benefice.

3. That no Parson or Vicar, is to be admitted to any Benefice with Cure, except he do first subscribe to these 39 Articles before the Ordinary, and publicly read the same in the Parish-Church of that Benefice, with Declaration of his unfeigned Assent to the same, 13 *Eliz. Chap. 12.* See for this more in *Chap. 2. Sect. 3.*

Eating of Fish,

4. That if any Minister do by Word or Writing, maintain the eating of Fish, or forbearing of Flesh, to be of necessity to Salvation, or Service of God, otherwise then as other politick Laws be, he shall be punished, as a

*Spreader

Spreader of false News, by the first of *Eliz.*
cap. 5.

5. That the Justices of Peace, as to all these things, concerning the Church of *England*, Jurisdiction Ecclesiastical, and Doctrines of the Church of *England*, and other things before-named, and the Laws before-mentioned touching the same, we find have very little, or no power at all, to be exercised by them, within or without their Sessions of the Peace. For, as to the Acts or Ordinances, so called, of *May 2. 1648.* and *Septemb. 17. 1656.* and *Aug. 9. 1650.* these are now of no use to us.

The Office of the Justice of Peace in all these things.

SECT. IV.

About Doctrines and Opinions.

And from the Canons of 1603. it is further to be known,

1 That Ministers are four times a year, at the least, to preach up publicly the King's Supremacy, next under God in all Causes, Civil and Ecclesiastical; and may not, in their Doctrine, oppose it, under pain of Excommunication, *Can. 2.*

What Ministers are to Preach four times a year King's Supremacy. *Sect. 2.*

2 They are not to affirm, that the Church of *England* is not a true and Apostolical Church, teaching and maintaining the Doctrine of the Apostles, under the like pain, *Can. 3.*

Not deny the Church of *England* to be a true Church.

3 They are not to affirm, that the Form of God's Worship, in the Book of Common-Prayer, and Administration of Sacraments, established by Law, is corrupt, Superstitious, or

Not to speak against the Form used in *England*, in God's Worship.

unlawful, or containeth any thing in it repugnant to the Scriptures, under pain of Excommunication, *Can. 4.*

Not to speak a-
gainst the 39
Articles.

4. They are not to affirm that any thing in the 39 Articles agreed upon 1562. is, in any part, Superstitious or erroneous; or such, as they may not with good Conscience subscribe unto, under the like pain, *Can. 5.*

Not to speak a-
gainst the Cere-
monies.

5. They are not to affirm, that the Ceremonies of the Church of England, established by Law, are wicked, Antichristian, or Superstitious; or such, as men may not with good Conscience approve, use; or, as occasion requireth, subscribe unto, under the like pain, *Can. 6.*

Not to speak a-
gainst the Gov-
ernment by Bi-
shops, &c.

6. They are not to affirm, that the Government of this Church, by Arch-Bishops, Bishops, Deans, Arch-Deacons, and the rest, that bear Office in the same, is Antichristian, or repugnant to the Word of God, under the like pain, *Can. 7.*

Not to speak a-
gainst the Form
of making or Bi-
shops, &c.

7. They are not to affirm, That the manner of making Bishops, Priests, or Deacons, hath any thing in it repugnant to God's Word; or, that they that are so made, are not lawfully made, nor are so to be accounted of, until they have some other Calling, under the like pain, *Can. 8.*

Not to say others
than refuse the
Ceremonies, may
be a Church.

8. They may not affirm, That such Ministers as refuse to subscribe to the Form of God's Worship in the Church of England, and their Adherents, may take unto them the names of another Church, not established by Law; or that they have a long time groaned under the Burthen of certain Grievances imposed on

on them, under the pain aforesaid, *Can.*
10.

9. They may not affirm, That there are other Assemblies of the King's Subjects, within the Realm (other then such as by the Laws of this Land, are held and allowed to be such) who may rightly challenge to themselves the Name of true and lawful Churches, under the like pain, *Can.* 11.

10. Nor may they affirm, That it is lawful for any Ministers or People to joyn together, and make Constitutions in Causes Ecclesiastical, without the King's Authority; or to submit themselves to be ruled by them, under the like pain, *Can.* 12.

Not to say other
without the
King's Authority,
may make
Canons, &c.

11. Nor may they affirm, That the Sacred Synod of the Nation, assembled in the Name of Christ, and by Authority of the King, is not the true Church of *England* by Representation; or, that none are bound by the Decrees of such a Synod, that are not present, or do not agree to them, is to be excommunicated, and not to be restored, till he revoke his Error, *Can.* 139,
140.

Synod of the
Nation.

SECT.

CHAP. III.

SECT. I.

*About Bishops and Ministers, upon 5 and 6 Ed. 6.**1. 13 Eliz. 12. 14 Car. 2. How they are to be ordered, and called to the Office.**How ordained.*

THat all Bishops and Ministers are to be made & consecrated, according to the Book of Common-Prayer now settled; and he that is otherwise made, or present at any other making of them, then according to that Book, is to be punished, for the first offence, with imprisonment for 6 moneths without Bail. For the second offence, for twelve moneths. For the third, during life, 5 & 6 Ed. 6. cap. 1. But if this Statute be in force, (as it seems it is) no man may be punished for any offence against it, but by way of Indictment, or Presentment of a Jury.

2 And no Minister, that hath now any Benefice with Cure, who is not ordained by a Bishop, or shall not be so ordained, before the Feast of *Bartholomew* next, shall hold no Benefice beyond the said Feast, but shall be utterly incapable thereof, by 14 Car. 2.

3 Nor may any Minister hereafter be capable of any Benefice with Cure, that is not so ordained.

And by the *Canons* of 1603.

First, No Bishop may make Ministers, except

cept four times in the year , (in the *Ember Weeks*) upon the Sundays next, *Jejunia quatuor temporum*. And then in the Cathedral, or Parish-Church, where the Bishop dwells, and in time of Divine Service ; and he is therein to be assisted by three or four Masters of Art, Divines of his own Cathedral , or some other Church, *Can. 32.*

Secondly, A Deacon must be of the age of twenty three years, and a Priest 24 years old , and one that hath taken a degree, and is able to give an account of his Faith in *Latine*, according to the Articles of Religion, and to confirm the same by the Scripture, *Can. 34.*

Thirdly , No man is to be called to preach, and administer the Sacraments at once, but at twice, *Can. 32.*

Fourthly, Nor is any man to be called to either, till he hath some certain place to exercise his Function in.

SECT.

S E C T. II.

Of the Qualifications of a Minister.

Age of a Minister.

Subscribe, and read the Articles of Religion.

First, No man is to be called to the Office of a Minister, or admitted to preach, or administer Sacraments, under the age of twenty four years; nor then, unless he bring a *Testimonie* from four men, known to the Bishop, that he is of sound Religion, honest life, and doth profess and own the Articles of Religion, agreed on in One Thousand Five Hundred sixty two; and can give an account to the Bishop of his Faith in *Latine*, according to the same Articles; or hath a special Gift or Ability in Preaching. Nor may any be admitted to be a Deacon, or Minister, unless he do first declare his unfeigned Assent unto, and subscribe the said Thirty Nine Articles, 13 *Eliz.* 12. and 14 *Car.* 2. None are to be admitted to a Benefice with Cure, that is not a Deacon, and twenty three years old, and that shall not subscribe the same Articles, in the presence of the Ordinary, and publickly read them in the Church of his Benefice, and declare his Assent thereunto, 13 *Eliz.* 12.

Lecturer not to preach till Subscription.

Secondly, If any Lecturer preach or read any Sermon in any publique Church, before he be approved, and Licensed by the Archbishop of the Diocess, Bishop of the place, or

or Guardian of the Spiritualities under Seal, and before he hath read the Thirty Nine Articles, and declared his Assent thereunto, before him that makes the Licence, he shall be imprisoned three Moneths without Bail, in the Common-Gaol. And any two Justices, or the Mayor, or other chief Officer of the Peace, upon Certificate from the Ordinary of the place, to them, or him, of the offence committed, may commit him accordingly, upon the 14 *Car. 2.* And this Clause seems to extend to all Ministers, that preach any where without Licence.

Thirdly, None may have a Benefice with Cure of thirty pounds *per annum*, in the King's Books; but a Batchelor of Divinity, or Preacher, allowed by some Bishop, or one of the Universities, 13 *Eliz. 12.*

Fourthly, No Parson in any Benefice with Cure, the fourteenth of *Car. 2.* not then in Orders, and Episcopally Ordained, according to the Order prescribed, may hold his Living, by the fourteenth of *Car. 2.* Nor may he be capable of any Parsonage or Vicarage, that is not so Ordained by the fourteenth of *Car. 2.* No man is to preach; and, by the Canons, expound or administer Sacraments, till he be Licensed by the Bishop of his own, or some other Diocese; or by one of the Universities, *Can. 34, 36, 39.*

Ordination by a Bishop.

Canons.

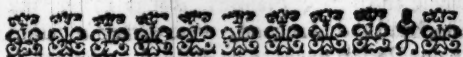
Licence by the

Bishop.

First,

First, A Deacon is to preach onely, and not to administer Sacraments; but a compleat Minister is to do both, *Can. 32.*

Secondly, The Bishop is not to admit him, without some Testimonial, under the Seal of some Colledge, in one of the Universities, whereof he was: or of three or four grave Ministers that know him, or from the Bishop of the Diocess where he lives, unless he were of the Bishops own Diocess, *Can. 34.*



ARTICLES OF RELIGION.

1- *Of Faith in the Holy Trinity.*

THere is but one living and true God, everlasting, without body, parts, or passions; of infinite power, wisdom, and goodness, the Maker and Preserver of all things, both visible and invisible. And in unity of this Godhead, there be three Persons, of one substance, power, and eternity; the Father, the Son, and the Holy Ghost.

2. *Of the Word or Son of God, which was made very Man.*

The Son, which is the Word of the Father, begotten from everlasting of the Father, the very and eternal God, of one substance with the Father, took man's nature in the Womb of the blessed

Articles of Religion.

bleſſed Virgin, of her ſubſtance: ſo that two whole and perfect Natures, that is to ſay, the Godhead and Manhood, were joyned together in one Perſon, never to be divided, whereof is one Chriſt, very God, and very Man, who truly ſuffered, was crucified, dead, and buried, to reconcile his Father to us, and to be a Sacrifice, not onely for original guilt, but alſo for actual ſins of men.

3. *Of the going down of Chriſt into Hell.*

As Chriſt dyed for us, and was buried: ſo alſo is it to be believed, that he went down into Hell.

4. *Of the Reſurrection of Chriſt.*

Chriſt did truly riſe again from death, and took again his body, with fleſh, bones, and all things appertaining to the perfection of man's nature, wherewith he aſcended into Heaven, and there ſitteth, until he return to judge all men at the laſt day.

5. *Of the Holy Ghoſt.*

The Holy Ghoſt, proceeding from the Father and the Son, is of one ſubſtance, Majeſty, and Glory, with the Father and the Son, very and eternal God.

*6. Of the sufficiency of the Holy Scriptures
for Salvation.*

Holy Scripture containeth all things necessary to Salvation : so that whatsoever is not read therein, nor may be proved thereby, is not to be required of any man, that it should be believed as an Article of the Faith, or be thought requisite or necessary to Salvation. In the name of the holy Scripture, we do understand those Canonical Books of the Old and New Testament, of whose Authority was never any doubt in the Church.

7. Of the Old Testament.

The Old Testament is not contrary to the New ; for both in the Old and New Testament, everlasting life is offered to Mankind by Christ, who is the onely Mediator between God and Man, being both God and Man. Wherefore they are not to be heard, which feign that the old Fathers did look onely for transitory promises. Although the Law given from God by Moses, as touching Ceremonies and Rites, do not bind Christian men, nor the civil Precepts thereof ought of necessity to be received in any Common-wealth : yet notwithstanding no Christian man whatsoever, is free from the obedience of the Commandments, which are called Morall.

8. Of the three Creeds.

The three Creeds, Nice-Creed, Athanasius's Creed, and that which is commonly called the Apostles Creed, ought thoroughly to be received and believed; for they may be proved by most certain Warrants of Holy Scripture.

9. Of original Birth or Sin.

Original sin standeth not in the following of *Adam*, (as the *Pelagians* do vainly talk) but it is the fault and corruption of the nature of every man, that naturally is ingendred of the offspring of *Adam*, whereby man is very far gone from original righteousness, and is of his own nature inclined to evil, so that the flesh lusteth always contrary to the Spirit, and therefore in every person, born into this World, it deserveth God's wrath and damnation. And this infection of Nature doth remain, yea, in them that are regenerated, whereby the lust of the flesh, called in *Greek* *φρόνημα σαρκός*, which some do expound the wisdom, some sensuality, some the affection, some the desire of the flesh, is not subject to the Law of God. And although there is no condemnation for them that believe and are baptized, yet the Apostle doth confess, that Concupiscence and Lust hath of it self the nature of sin.

10. *Of Free-Will.*

The condition of many after the fall of *Adam*, is such, that he cannot turn and prepare himself by his own natural strength and good works, to Faith and calling upon God: wherefore we have no power to do good works, pleasing and acceptable to God, without the grace of God by Christ preventing us, that we may have a good will, and working with us, when we have that good will.

11. *Of the Justification of Man.*

We are accounted righteous before God one-ly for the merit of our Lord and Saviour Jesus Christ by Faith, and not for our own works or deservings. Wherefore, that we are justified by Faith one-ly, is a most wholesome Doctrine, and very full of comfort, as more largely is expressed in the Homily of Justification.

12. *Of good Works.*

Albeit that good works, which are the fruits of Faith, and follow after Justification, cannot put away our sins, and endure the severity of God's Judgment, yet are they pleasing and acceptable to God in Christ, and do spring out necessarily of a true and lively Faith, insomuch that by them, a lively Faith may be as evidently known, as a Tree discerned by the Fruit.

13. Of Works before Justification.

Works done before the grace of Christ, and the inspiration of his Spirit, are not pleasant to God, forasmuch as they spring not of Faith in Jesus Christ; neither do they make men meet to receive grace, (or as the School-Authors say) deserve grace of congruity: yea, rather for that they are not done as God hath willed and commanded them to be done, we doubt not but they have the nature of sin.

14. Of Works of Supererogation.

Voluntary Works besides, over and above God's Commandments, which they call Works of Supererogation, cannot be taught without arrogancy and impiety. For by them men do declare, that they do not onely render unto God as much as they are bound to do, but that they do more for his sake, then of bounden duty is required: Whereas Christ saith plainly, when ye have done all that are commanded to you, say, We are unprofitable Servants.

15. Of

15. *Of Christ alone without sin.*

Christ in the truth of our nature was made like unto us in all things (sinne onely excepte) from which he was clearly void, both in his flesh, and in his spirit. He came to be a lamb without spot, who by sacrifice of himself once made, should take away the finnes of the World: and sinne (as St. John saith) was not in him. ¶ But all the rest (although baptized, and born again in Christ) yet offend in many things; and if we say we have no sinne, we deceive our selves, and the truth is not in us.

16. *Of sin after Baptism.*

Not every deadly sin willingly committed after Baptism is sinne against the Holy Ghost, and unpardonable. Wherefore the grant of repentance is not to be denied to such as fall into sinne after Baptism. After we have received the holy Ghost, we may depart from grace given, and fall into sinne; and by the grace of God (we may) arise again, and amend our lives. And therefore they are to be condemned, which say, they can no more sin as long as they live here, to deny the place of forgiveness to such as truly repent.

17. *Of Predestination and Election.*

Predestination to life is the everlasting purpose of God, whereby (before the foundation

ons of the world were laid) he hath constantly decreed by his counsel, secret to us, to deliver from curse and damnation those whom he hath chosen in Christ out of mankind, and to bring them by Christ to everlasting salvation, as vessels made to honour. Wherefore they which be indued with so excellent a benefit of God, be called according to Gods purpose by his Spirit working in due season: they through grace obey the calling: they be justified freely: they be made sons of God by adoption: they be made like the Image of his only begotten Son Jesus Christ: they walk religiously in good works, and at length by Gods mercy they attain to everlasting felicity.

As the godly consideration of Predestination and our Election in Christ is full of sweet, pleasant and unspeakable comfort to godly persons, and such as feel in themselves the working of the Spirit of Christ mortifying the works of the flesh, and their earthly members, and drawing up their minds to high and heavenly things, as well because it doth greatly establish and confirm their faith of eternal salvation, to be enjoyed through Christ, as because it doth fervently kindle their love towards God: So for curious and carnal persons, lacking the Spirit of Christ, to have continually before their eyes the sentence of Gods predestination, is a most dangerous downfall, whereby the devil doth thrust them either into desperation, or into wretchedness of most unclean living, no less perilous then desperation.

Furthermore, we must receive Gods promise in such wise as they be generally set forth to us

in holy Scripture: and in our doings, that Will of God is to be followed, which we have expressly declared unto us in the word of God.

18. *Of obtaining eternal salvation only by the Name of Christ.*

They also are to be had accursed, that presume to say that every man shall be saved by the Law or Sect which he professeth, so that he be diligent to frame his life according to that Law and the light of Nature. For holy Scripture doth set out unto us only the name of Jesus Christ whereby men must be saved.

19. *Of the Church.*

The visible Church of Christ is a congregation of faithful men, in the which the pure word of God is preached, and the Sacraments be duly ministered, according to Christ's ordinance, in all those things that of necessity are requisite to the same.

As the Church of Jerusalem, Alexandria, and Antioch have erred: so also the Church of Rome hath erred, not only in their Living and Manner of ceremonies, but also in matters of Faith.

20. *Of the authority of the Church.*

The Church hath power to decree Rites or Ceremonies, and authority in controversies of faith: and yet it is not lawful for the Church to ordain any thing that is contrary to Gods word written, neither may it so expound one place of

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Scripture, that it be repugnant to another. Wherefore although the Church be a witness and keeper of Holy Writ, yet as it ought not to decree any thing against the same, so besides the same ought it not to enforce any thing to be believed for necessity of salvation.

21. Of the authority of General Councils,

General Councils may not be gathered together without the commandment and will of Princes. And when they be gathered together (for asmuch as they be an assembly of men, whereof all be not governed with the Spirit and Word of God) they may erre, and sometime have erred, even in things pertaining unto God. Wherefore things ordained by them, as necessary to salvation, have neither strength nor authority, unless it may be declared, that they be taken out of holy Scripture.

22. Of Purgatory.

The Romish doctrine concerning Purgatory, Pardons, worshipping and adoration, as well of Images, as of Reliques, and also invocation of Saints, is a fond thing, vainly invented, and grounded upon no warrant of Scripture, but rather repugnant to the word of God.

23. Of Ministering in the Congregation.

It is not lawful for any man to take upon him the office of publick preaching, or ministering the Sacraments in the Congregation, before he be lawfully called, and sent to execute the

the same. And those we ought to judge lawfully called and sent, which be chosen and called to this work by men, who have publick Authority given unto them in the Congregation, to call and send Ministers into the Lord's Vineyard.

24. Of speaking in the Congregation in such a Tongue as the People understandeth.

It is a thing plainly repugnant to the Word of God, and the custom of the Primitive Church, to have publick Prayer in the Church, or to minister the Sacraments in a Tongue not understood of the People.

25. Of the Sacraments.

Sacraments ordained of Christ, be not onely Badges or Tokens of Christian mens Profession; but rather they be certain sure Witnesses, and effectual signs of Grace, and God's goodwill towards us, by the which he doth work invisibly in us, and doth not onely quicken, but also strengthen and confirm our Faith in him.

There are two Sacraments ordained of Christ our Lord in the Gospel, that is to say, Baptism, and the Supper of the Lord.

Those five commonly called Sacraments, that is to say, Confirmation, Penance, Orders, Matrimony, and extream Unction, are not to be counted for Sacraments of the Gospel, being such as have grown, partly of the corrupt following of the Apostles, partly are states of life allowed in the Scriptures: but yet have not like nature of

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Sacraments, with Baptism and the Lords Supper, for that they have not any visible Sign or Ceremony ordained of God.

The Sacraments were not ordained of Christ to be gazed upon, or to be carryed about, but that we should duly use them. And in such only, as worthily receive the same, they have a wholefom effect or operation: but they that receive them unworthily, purchase to themselves damnation, as St. Paul saith.

26. *Of the unworthiness of the Ministers, which hinder not the effect of the Sacrament.*

Although in the visible Church, the evil be ever mingled with the good, and sometime the evil have chief authority in the ministration of the Word and Sacraments: yet forasmuch as they do not the same in their own name, but in Christs, and do minister by his Commission and Authority, we may use their ministring, both in hearing the Word of God, and in the receiving of the Sacraments. Neither is the effect of Christ's Ordinance taken away by their wickedness, nor the grace of God's gifts diminished from such, as by Faith, and rightly do receive the Sacraments ministred unto them, which be effectual; because of Christ's Institution and Promise, although they be ministred by evil men.

Nevertheless, it appertaineth to the Discipline of the Church, that enquiry be made of evil Ministers, and that they be accused by those that have knowledge of their offences: and finally, being found guilty, by just judgment be deposed.

27. *Of Baptism.*

Baptism is not onely a sign of profession, and mark of difference, whereby Christian men are discerned from others that be not Christened; but it is also a sign of Regeneration, or New Birth, whereby, as by an Instrument, they that receive Baptism rightly, are grafted into the Church; the Promises of the forgiveness of sin, and of our adoption to be the Sons of God by the Holy Ghost, are visibly signed and sealed; Faith is confirmed, and Grace increased, by vertue of Prayer unto God. The Baptism of young Children, is in any wise to be retained in the Church, as most agreeable with the Institution of Christ.

28. *Of the Lords Supper.*

The Supper of the Lord is not onely a sign of the love that Christians ought to have among themselves one to another: but rather it is a Sacrament of our Redemption by Christ's death. Insomuch, that to such as rightly, worthily, and with Faith receive the same, the bread which we break, is a partaking of the Body of Christ: and likewise, the Cup of Blessing, is a partaking of the Bloud of Christ.

Transubstantiation (or the change of the substance of Bread and Wine in the Supper of the Lord) cannot be proved by Holy Writ: but it is repugnant to the plain words of Scripture, ~~con~~trarieth the nature of a Sacrament, and hath given occasion to many Superstitions.

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The Body of Christ is given, taken and eaten in the Supper onely, after an heavenly and spiritual manner. And the mean, whereby the Body of Christ is received and eaten in the Supper, is Faith.

The Sacrament of the Lord's Supper was not by Christ's Ordinance reserved, carried about, lifted up or worshipped.

29. *Of the Wicked which eat not the Body of Christ, in the use of the Lord's Supper.*

The Wicked, and such as be void of a lively Faith, although they do carnally and visibly press with their teeth (as St. *Augustine* saith) the Sacrament of the Body and Bloud of Christ: yet in no wise are they partakers of Christ, but rather to their condemnation, do eat and drink the Sign or Sacrament of so great a thing.

30. *Of both kinds.*

The Cup of the Lord is not to be denied to the Lay-People. For both the parts of the Lords Sacrament, by Christ's Ordinance and Commandment, ought to be ministred to all Christians alike.

31. *Of the one oblation of Christ finished upon the Cross.*

The offering of Christ one made, is that perfect Redemption, Propitiation, and Satisfaction, for all the sins of the whole World, both original

nal and actual, and there is none other satisfaction for sin, but that alone. Wherefore the Sacrifices of Masses, in the which it was commonly said, that the Priest did offer Christ for the Quick and the Dead, to have remission of pain or guilt, were blasphemous Fables, and dangerous Deceits.

32. Of the Marriage of Priests.

Bishops, Priests, and Deacons, are not commanded by God's Law, either to vow the estate of single life, or to abstain from Marriage: Therefore it is lawful also for them, as for all other Christian men, to marry at their own discretion, as they shall judge the same to serve better to godliness.

33. Of excommunicate persons, how they are to be avoided.

That person which by open denunciation of the Church, is rightly cut off from the unity of the Church, and excommunicated, ought to be taken of the whole multitude of the Faithful, as an Heathen and Publican, until he be openly reconciled by Penance, and received into the Church by a Judge that hath authority thereto.

34. Of the Traditions of the Church.

It is not necessary, that Traditions and Ceremonies be in all places one, or utterly like; for at all times, they have been divers, and may be changed according to the diversity of Coun-

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Countries, times, and mens manners, so that nothing be ordained against God's Word. Whosoever, through his private judgment, willingly and purposely, doth openly break the Traditions and Ceremonies of the Church, which be not repugnant to the Word of God, and be ordained and approved by common Authority, ought to be rebuked openly, (that other may fear to do the like) as he that offendeth against the common Order of the Church, and hurteth the Authority of the Magistrate, and woundeth the Consciences of the weak Brethren. Every particular, or National Church, hath Authority to ordain, change, and abolish Ceremonies, or Rites of the Church, ordained onely by man's Authority, so that all things be done to edifying.

35. *Of Homilies.*

The second Book of Homilies, the several Titles whereof we have joyned under this Article, doth contain a godly and wholesome Doctrine, and necessary for these times, as doth the former Book of Homilies, which were set forth in the time of *Edward the sixth*: and therefore we judge them fit to be read in Churches by the Ministers diligently, and distinctly: that they may be understood of the People.

36. *Of Consecration of Bishops and Ministers.*

The Book of Consecration of Arch-Bishops and Bishops, and ordering of Priests and Deacons, lately set forth in the time of *Edward the sixth*

sixth, and confirmed at the same time by Authority of Parliament, doth contain all things necessary to such Consecration and ordering; neither hath it any thing that of its self is Superstitious and ungodly. And therefore, whosoever are consecrated, or ordered, according to the Rites of that Book, since the second year of the afore-named King *Edward*, unto this time, or hereafter shall be consecrated, or ordered, according to the same Rites, we decree all such to be rightly, orderly, and lawfully consecrated and ordered.

37. *Of the Civil Magistrates.*

The Queen's Majesty hath the chief power in this Realm of *England*, and other her Dominions, unto whom the chief Government of all Estates of this Realm, whether they be Ecclesiastical, or Civil, in all Causes doth appertain, and is not, nor ought to be subject to any Foreign Jurisdiction. Where we attribute to the Queen's Majesty the chief Government, by which Titles we understand the minds of some slanderous Folks to be offended, we give not to our Princes the ministering, either of God's Word, or the Sacraments, the which thing the Injunctions also lately set forth by *Elizabeth* our Queen, do most plainly testifie: But that onely Prerogative, which we see to have been given always to all godly Princes in Holy Scriptures by God himself, that is, that they should rule all Estates and Degrees, committed to their charge by God, whether they be Ecclesiastical, or Temporal, and restrain with the Civil Sword the stubborn and evil

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evill doers. The Bishop of *Rome* hath no Jurisdiction in this Realm of *England*. The Laws of the Realm may punish Christian men with death, for heinous and grievous offences. It is lawful for Christian men, at the commandment of the Magistrate, to wear Weapons, and serve in the Wars.

38. *Of Christian mens goods, which are not common.*

The riches and goods of Christians are not common, as touching the right, title, and possession of the same, as certain Anabaptists do falsely boast. Notwithstanding, every man ought of such things as he possesseth, liberally to give Alms to the Poor, according to his ability.

39. *Of a Christian man's Oath.*

As we confess, that vain and rash swearing is forbidden Christian men by our Lord Jesus Christ, and *James* his Apostle: So we judge, that Christian Religion doth not prohibit, but that a man may swear when the Magistrate requireth, in a cause of Faith and Charity, so it be done according to the Prophet's teaching, in Justice, Judgment, and Truth.

SECT.

SECT. III.

Of the Duty of the Minister. And what is to be done by him that is a Minister, and that shall hereafter obtain any Spiritual promotion, at his Entrance, or afterwards.

Every Lecturer that is to be admitted unto any Lecture, or to preach as a Lecturer, is to be first approved, and licensed by the Archbishop of the Province, or the Bishop of the place, Guardian of the Spiritualities under Seal. And to read the Articles of Religion, and declare his unfeigned Assent to them before the Bishop. 14 Car. 2. And this Clause seems to extend to all others that shall preach any where: For the words are, That no person shall be, or be received as a Lecturer, or permitted, suffered, or allowed to preach as a Lecturer, or to preach, or read any Sermon or Lecture, in any Church, Chappel, &c. unless he be first approved, &c.

2. He that is called to a Benefice with cure of Souls, must be a *Deacon*, and 23 years of Age at least, and publickly in his Parish-Church, read the 39 Articles at Common-Prayer-time, and declare his unfeigned assent to them, and subscribe them before the Ordinary, by the 13 *Elix.* Chap. 12. And this reading must be of the very same Book, and no other; and he must read it *verbatim*, as it is in the Book, and not otherwise. And therefore it is held unsafe, for a Minister to read them out of *Rogers's Exposition* of these

Ministers to read and subscribe the Articles of Religion.

Articles, as they are there transcribed, or the like; for it happened, that a Minister being to read the Articles, took the right Book with him, and layd it by him on the Desk, till he had read the Common-Prayer, intending then to read it. And in the mean time, by the Patrons meanes, that Book was privatly taken away, and another Book which was not a true Copy, foysted into the place thereof: which he took up & read. And this was adjudged no good reading within the Statute, whereupon he lost his Living, Reported by Justice *Jones*. Also his Subscription must be absolute, and not qualified, as to say, he subscribes them with this, or the like addition, *viz.* so far forth, as the same are agreeable to the Word of God; but must be absolute, or it will not be good. *Cook* 5. 29. *Cook*, Inst. 2. pag. 324. *Dyer* 377. And if he shall not so do, within two moneths after his Induction, that is, publickly read the Articles in the Parish-Church, to which he is so presented in Common-Prayer-time, with Declaration of his Assent thereunto. And if also he be not admitted to administer the Sacraments within a year after his Induction at the furthest, he shall be *ipso facto*, deprived thereof. 13 *Eliz.* 12.

Sacraments.

To read the
Common Prayer.

3. He is within two moneths after his Induction to a Benefice, if he have no hinderance allowed by the Bishop, or within a moneth after the impediment removed in his own Church openly before his Congregation solemnly to read the morning and evening Prayer, according to the Book, and declare his unfeigned Assent to the use of all things in the Book prescribed

bed on pain to be *ipso facto*, deprived of [all his
Spiritual Promotions. 14 Car. 2.

4. If any Lecturer allowed and Licensed, shall not the first time he shall preach, and the first Lecture-day of every moneth afterwards, solemnly before Sermon, read Common-Prayer appointed for the Day, and openly declare his assent unto, and approbation of the Book, and the use of all the Prayers, Rites and Ceremonies, he shall lose his Lecture, be made incapable of it, or any other Lecture, till he conform in all points, and be imprisoned three moneths in the common Goal without Bail. And any two Justices, or the Maior, or other Officer of the place, upon Certificate of the Conviction of the offence by the Ordinary before him to the Justices or Maior, or Head-Officer, may, and must send him thither. And if such Lecturer shall before he do conform, and read Common-Prayer in his Parish, as before preach elsewhere, he is to be punished for this, as for the first offence, 14 Car. 2.

Lecturer to read
Common Prayer.

Justices of
Peace.

5. Every Parson, Vicar, Curate, Lecturer, and other in holy Orders that is to be an Incumbent, or to have any Parsonage, Vicarage, Curates place or Lecture, at, or before his Admission into it, is to subscribe the Declaration following, (*viz.*) I A, B, do declare, that it is not lawful upon any pretence whatsoever, to take Arms against the King, and that I do abhor that trayterous position of taking Arms by his Authority against his person, or against those that are Commissionated by him. And that I

Subscription.

The Duty of Ministers.

will conform to the Liturgie of the Church of *England*, as it is now by Law established. And I do declare, that I do hold that there lies no Obligation upon me, or on any other person, from the Oath commonly called the Solemn League and Covenant, to endeavour any change or alteration of Government, either in Church or State. And that the same was in it self an unlawful Oath, and imposed upon the Subjects of this Realm, against the known Lawes and Liberties of this Kingdom. And this he is to subscribe before the Arch-Bishop, Bishop, or Ordinary of the Dioceſs, under pain of deprivation *ipſo facto*. 14 *Car.* 2.

So every ſuch perſon that was in any ſuch place, 1 *May* 1662. was before *St. Bartholomew* then following, ſo to do, on the like pain, 14 *Car.* 2.

The like for the reading of Common Prayer, and for the Subscription, was enjoyned to all Deanes, Canons, and Prebendaries of every Cathedrall and Collegiat-Church, and all Maſters, and other Heads and Fellows, Chaplains and Tutors of, or in any Colledge, Hall, Houſe of Learning, or Hoſpitall, and every publick Profeſſor, and Reader in either of the Univerſities, and in every Colledge eſſe-where. But all theſe, are to ſubſcribe before the Vice-Chancellor of the Univerſity for the time being, or his Deputy.

The like Law is for every Schoolmaſter, that keepeth any publick or private School, or that teacheth any youth in any houſe, or private Family as a Tutor, or Schoolmaſter. And they are to ſubſcribe it before the Arch-Biſhop,

or Bishop of the Diocess, under the like pain.

6. Every Minister is to take the Oath of Supremacy, being duly tendered to him by the Arch-Bishop, or Bishop of the Diocess, or other having power from the Lord Chancellor, to tender it, and to minister it; for if he refuse it, he forfeits his Spiritual promotion for his life. 2 Eliz. 1. And if he be such a one, as does not observe the Rites of Divine Service, or deprave by words or Writings, the Rites of the Church, or use to say, or hear private Masse, the refusal upon the second tender of it by him, may be Treason. 5 Eliz. 1.

To have and to read the Bishops Certificate.

The Parsons, Vicars, Curates, Lecturers, and Schoolmasters, are all of them after such Subscription before the Bishop, to procure a Certificate under the Hand and Seal of the Arch-Bishop, Bishop, or Ordinary of the Diocess, who are to deliver it upon demand. And this they are openly to read with the Declaration aforesaid upon a Lords Day, within three moneths then next following, on their Parish-Churches, before the Congregation present, in time of Divine Service, in pain to lose the place *ipso facto*, and to be disabled and deprived of it. And the place to be void. But after the 25. of March, 1682. These words are to be omitted. And I do declare, that there lies no Obligation on me, or on any other person, from the Oath commonly called, *The Solemn League and Covenant*, to endeavour any change, or alteration of Government in Church or State; And that the same was in it self an unlawful Oath, and imposed upon the Subjects of the Realm, against the

known

known Lawes and Liberties of this Kingdom.

7. If any Parson or Vicar, having a Parsonage, or Vicarage, on which he doth reside, keeping a Curate, shall not himself (nor having an Impediment to be allowed by the Ordinary) at the least once a moneth, read Common Prayer, according to the new Book of Common-Prayer; and (if occasion be) administer each of the Sacraments, and other Rites of the Church in his Parish-Church, he forfeits 5 *li.* to the use of the poor. Upon Conviction by X Confession, or Oath of two Witnesses before two Justices of the Peace, of the place where the offence is. And for non payment in ten dayes to be levied by Distress and sale of goods by warrant of the same Justices to the Churchwardens or Overseers of the poor of the Parish rendring the over-plus, by 14 *Car.* 2.

About Common-Prayer.

In the Sessions.

Not use any other Prayer-Book.

8. All Ministers are to read Morning, and Evening Prayer, out of the Book of Common-Prayer, newly serled every Lords Day and Holy day, after the Feast of St. *Bartholomew* next, in the year 1662. And till then, to use the former Book, and are forbidden to use any other form but what is in this Book. 14 *Car.* 2. And for this, if they do otherwise, they are indictable in some Court or other.

9. This Prayer and no other, must be used, and he that shall wilfully and obstinately standing in it, use any other in his Cathedral, or Parish Church, he shall forfeit to the King for the first offence, all his Spiritual Promotions for a year; for the second offence for ever, and Imprisonment for a year: for the third, all his Spiritual promotions for ever, and Imprisonment for his

his life, and if he have no spiritual promotions then for the first offence, imprisonment for a year; for the second offence, imprisonment for his life, by the 1 *Eliz.* chap. 12.

And by the second and third of *Edw.* the 6th, Chap. 1. (if that Statute be in force, as it seems it is) he is to forfeit for the first offence, any one of his spiritual promotions which the King pleaseth to choose for a year, and imprisonment for six moneths, without Bail; and for the second time, the losse of all his spiritual promotions, and imprisonment for a year. And for the third offence, imprisonment during life; And if he have no spiritual promotions, then he is to suffer for the first offence, six moneths Imprisonment without Bail; for the second offence, imprisonment during life: and so such of the penalties as are capable of doubling, must be doubled. And he is moreover, to be liable to Indictment, Fine and Imprisonment, for the not using of it, or for the using of any other form upon 14 *Car.* 2. And if he be resident, and have a Curate, and do not himself read it once a moneth, he is liable to the 5 *l.* Penalty, by 14 *Car.* 2. And this the Justices of Peace, may cause to be levied.

Not to be at any other Prayer.

10. If he be present at any other form of Common-Prayer, he is to suffer for the first time, six moneths Imprisonment without Bail; for the second, 12. moneths without Bail; for the third, during life. 5 and 6 *Ed.* 6. Chap. 1.

Not to deprave
the Common-
Prayer-Book.

11. If the Minister shall deprave the Book of Common-Prayer, he is to forfeit for the first offence, the profit of his best Spiritual Living, and is to be imprisoned six moneths. For the second to be imprisoned a year, and be deprived of all his spiritual promotions. And for the third, to be imprisoned for his life. And if he have no spiritual promotion, he shall for the first offence, be imprisoned six moneths; and for the second, during his life, 2 & 3 *Ed. 6.* Chap. 1.

12. If he act any thing by way of Playes, Rhimes, or Songs, in derogation, or depraving any thing in this Book, he forfeits as much as for not using of it. 1 *Eliz.* Chap. 2.

To read Com-
mon-Prayer be-
fore St. Bartholomew
new day.

13. And every Minister already possessor of a Benefice with cure, that shall not before *Bartholomew* day next, in the year 1662. in his own Church, before his Congregation, read the Morning and Evening Prayer, according to the new Book, and solemnly declare his unfeigned assent to the use of all things in the Book contained and prescribed in the words of the Statute, 14 *Car. 2.* shall be deprived of all his Spiritual promotions, except he have an Impediment that shall be allowed sufficient by the Bishop, and then within a moneth after the Impediment removed, under the foresaid penalty. 14 *Car. 2.*

To keep the
Fifth of November.

14. Every Minister is bound to give notice of the fifth of *November*, and then to say Morning Prayer, and give thanks for our deliverance from the Gun-powder-Treason, and to read the Act of Parliament. 3 *Jac.* Chap. 1.

15. He

15 He is once every year in his Church, when the Assembly is at the greatest, to read the Statute of 5 and 6 Ed. 6. Chap. 1. and shew the power and effect of the unanimous Prayers of God's people in their necessities.

To read the Stat. of 5 and 6 Ed. 6.

16 He is to read the Act against Swearing and Cursing twice a year, 21 Jac. 20.

17 Every Minister is to use the Ceremony, Rite, Order, Form, and manner of Prayer, and Administration of the Sacraments, appointed by 5 and 6 Ed. 6. Under pain, if he refuse, and wilfully, and obstinately stand therein, to forfeit the same, as for not using the Book of Common-Prayer, or using of another, 1 Eliz. Chap. 2.

About the Ceremonies.

18 And by 5 Eliz. Chap. 2. it appears, That, in time, it may be a very dangerous thing, for a Minister wilfully to refuse, to observe the Orders and Rites for Divine Service, that are authorized to be used in the Church of *England*; or openly, or advisedly, to deprave by Words, Writings, or any other open Fact, any of the Rites or Ceremonies used in the Church of *England*; for this, after he hath been publickly by the Ordinary admonished to keep the same, with the refusal of the Oath of Supremacy the second time, upon tender thereof, may arise to a Capital offence. See the Statute, 5 Eliz. 2. And by the new Statute of 14 Car. 2. he is in his Ministration to use such Ornaments, as were used in the Church of *England* by Authority of Parliament, in the second year of *Edward* the sixth. See the Book of Common-Prayer. Nor may

may he use any other Ceremonies or Rites, then what are in that Book. And if he do so, he is indictable for it, 14 *Car. 2.* And the Minister that is resident, and keeps a Curate, must, as occasion is offered in his Publique Service, observe all the Rites, under the 5 *l.* pain, by 14 *Car. 2.*

About the Sacraments.

19 Every Minister is to administer the Sacraments, according to the Book of Common-Prayers, and not to use any other Form, under pain, if he do, to be under the same Forfeiture, as for not using thereof, if he refuse, and wilfully, and obstinately stand therein. See before both the Statute of 1 *Eliz. Chap. 2.* and 2 and 3 *Ed. 6. 1.* He is also to exhort the people, to prepare themselves for it, to give it every one that shall humbly and devoutly desire it, and to give it in both kinds, by the first of *Ed. 6. Chap. 1.*

And he may not force any man to receive it, or take it in any other form, then what is appointed; or interrupt the taking of it after that form, under pain to forfeit for the first offence 100 Mark; 1 *Ed. 6. Cap. 1.*

20 The Minister that resides on his Living and hath a Curate under him, is himself to administer each of the Sacraments (as occasion is) according to the Book of Common-Prayer, under pain of five pounds, to be levied, as for his not reading of Prayer every moneth, 14 *Car. 2.*

21 He that shall administer the Sacrament of the

the Lord's Supper, not ordained a Priest, by a Bishop, forfeits 100 pounds, 14 Car. 2.

22 If a Minister be not admitted within a year at the furthest of his Induction, to his Living, to administer the Sacraments, he is, *ipso facto*, deprived, 14 Car. 2.

23 The Doctrine of every Minister, must be according to the 39 Articles of Religion; for, if he having a Benefice, shall maintain any thing contrary to them, and be obstinate therein before his Ordinary, and will not revoke it; or, revoking it, return to it again, he loseth all his Ecclesiastical Promotions thereby; and the Bishop, or Ordinary, may deprive him, 13 Eliz. Chap. 12.

About their Doctrine, after the 39 Articles.

24 He may not speak, or preach any thing, in derogation, or depraving any thing in the Book of Common-Prayer; and if he so do, he forfeits as much, as by the not using of it, upon 1 Eliz. 2.

Not to deprave the Book of Common-Prayer

25 If he, or any other, preach or print, that the King is an Heretick, or a Papist, or that he endeavours to introduce Popery, or to stir up the people to the hatred or dislike of his person or government; if it be a Minister, he is by this made incapable of his Office: So if he preach, or maintain, that the Long-Parliament is yet in being, or that the King is bound by Oath to change the Government in Church or State, or that the two Houses of Parliament have a Legislative power without the King, or that any one is

Not say the King is a Papist.

That the Long-Parliament is in being.

is bound by any Oath, or Engagement that he hath taken, to endeavour such a thing, by this he will be in a *Premunire*, by 13 *Car. 2.* But the Justice of Peace hath nothing to do in this; nor hath he any thing to do now about Blasphemies or Heresies, upon *May 2. 1648.*

17 September 1656. 9 August 1650.

Not say, the eating of Fish is necessary.

26 If any Minister, by Word or Writing, maintain the eating of Fish, or forbearing of Flesh, to be of necessity to Salvation, or the Service of God, otherwise than other politique Laws, he may be punished, as a spreader of false News; 1 *Eliz. Chap. 5.*

Maintain the Pop.'s Supremacy.

27 If such a man shall maintain and affirm, by Preaching, or Teaching, that any Foreign Prelate or Potentate, hath any Power or Jurisdiction within the King's Dominions; by this he will forfeit all his Goods and Chattels. And if he be not worth twenty pounds at the time of his Conviction, he shall forfeit all he hath, and suffer one years Imprisonment without Bail. The second Offence is a *Premunire*. The third Offence, High-Treason. But, in this case, he must be prosecuted within six Moneths after the offence done, 1 *Eliz. 1.* And if he be a Clergy-man beneficed, upon his first Conviction, all his Spiritual Promotions are void, 1 *Eliz. 1.*

By the Canons,

And by the Canons, as is before shewed in *Chap. 2.*

First, The Ministers are four times a year, at the least, to preach up publicly the King's Supremacy.

Secondly,

Secondly, They are not to affirm, that the Church of *England* is not a true and Apostolical Church; nor that the Form of God's Worship, in the Book of Common-Prayer, and Administration of Sacraments, established by Law, to be corrupt, Superstitious, or unlawful; Nor that any things in the 39 Articles, agreed upon 1662. are, in any part, superstitious, or erroneous; Nor that the Ceremonies of the Church of *England*, established by Law, are wicked, Antichristian, or Superstitious, &c. Nor that the Government of this Church, by Arch-Bishops, Bishops, Deans, Arch-Deacons, and the rest, that bear Office therein, is Antichristian, &c. Nor that the manner of making Bishops, Priests, or Deacons, hath any thing in it repugnant to the Word of God; nor that such Ministers, as refuse to subscribe to the Form of God's Worship, in the Church of *England*, and their Adherents, may take themselves the name of another Church, &c. Nor that there are other Assemblies of the King's Subjects within the Realm, other then such, as by the Laws of this Land, are held and allowed to be such, that may rightly challenge to themselves the name of true and lawful Churches: Nor that it is lawful for any Minister, or People, to joyn together, and make Constitutions in Causes Ecclesiastical, without the King's Authority, &c. Nor that the Sacred Synod of the Nation, assembled in the Name of Christ, and by Authority of the King, is not the true Church of *England* by Representation. See before in *Chap. 2. Sect. 3.*

SECT. V.

Some other things the Minister is to do, or not to do.

Not to be Non-
resident.

A Minister that hath a Benefice with Cure, must be resident, and abide upon it; Pluralities being forbidden, except to some special Person qualified thereto, as Chaplains to great men, and the like. Therefore, if any not so qualified, that hath a Benefice, with Cure of Souls, of the value of eight pounds, *per annum*, or above, in the King's Book, do accept of another with Cure of Souls, and be inducted thereunto, the first shall be adjudged void, and the Patron may present, *de novo*. But for this, see the Statute 21 H. 8. Chap. 31. 26 H. 8. Chap. 19. 33 H. 8. Dyer 312. Cook 4. 190, 119, 78, 84.

Not to turn Far-
mer.

A Minister may not take to Farm, or as a Farmer, occupy any Land, for Life, Years, or at Will, or buy any Lease for Life, Years, or at Will, in his own name, except onely a House, Garden, or such like small thing, for his Habitation, or the renting some Grounds for Provision of his house, not having enough of his own besides; nor may he buy or sell in a Trade or course of Merchandizing, any Corn, Cattle, living or dead Commodities, but so much onely, as may serve for provision of his house, 21 H. 8. Chap. 13.

And

And, by the Canon-Law, 1. none may preach, or expound, in his own Cure, or elsewhere, though an ordained Minister, till examined and allowed by the Bishop, *Can. 34, 35, 49.* By the *Canons.*

2 None may preach in any Church or Chappel, but such as shew sufficient Authority to the Minister, or Church-Warden, for his preaching, *Can. 50.* and is to enter his name, and time of preaching, *Can. 52.*

3 None may preach in private houses, or any other places but Churches and Chappels, dedicated to holy use, without special License of the Bishop, *Can. 71, 73.*

4 None may hold Meetings for Sermons, or such Exercises, without Licence, under the Hand and Seal of the Bishop of the place, under pain of suspension for the first offence, Excommunication for the second, and deposition from the Ministry for the third, *Can. 52, 72.*

5 Every Minister is to visit the Sick (if not of infectious Disease) bury the Dead, and marry when desired; and all this, according to the Order set down in the Book of Common-Prayer, under pain of Suspension, *Canon 67, 68, 72.*

6 He is to give notice every Sunday of the Holy-days, and Fasting-Days, in the Week following, according to the Order in the Book of Common-Prayer, *Can. 74.*

7 He is to prepare the Children of his Parish to be confirmed, when the Bishop shall confirm them, *Can. 60, 61.*

SECT. VI.

The Priviledge of the Minister.

IF any one shall wilfully disturb a Preacher in his Preaching, or shall rescue him that hath so done, being apprehended therefore; any one Justice of Peace, upon complaint hereof onely, may commit him to safe keeping for six days. But then there must be two Justices, (one of them, he that committed him) that within six days must examine the matter; And if they find, either by his own Confession, or proof of two Witnesses, that he is guilty, to commit him to Prison for three Moneths; and till the next Quarter-Sessions, upon 1 *Mar. Chap. 3.* But this Statute doth not say, Whether the Proof shall be by Oath; nor gives power to the Justices to administer the Oath; and therefore it is best to let such Offenders, to be punished by the Sessions, who have execution of the Law.

And if the Town suffer such an Offender to escape, it is to be punished, 1 *Mar. Chap. 3.* But this Statute doth not say, the Proof shall be by Oath, nor give Justices of Peace power to give the Oath, and therefore it is safest to punish such Offenders in Sessions.

If by threatenings, or otherwise, any force a Minister to use any other service, or hinder him in doing service according to the Book of Common Prayer by Law established, is an offence, for which the offender is to suffer: for the first offence 100 Marks; and, this not paid in six weekes after conviction. Imprisonment without Bail: for the second 400 Marks; and this not paid in six weekes time, 12 months Imprisonment without bail. And for the third offence, the losse of all his goods and chattels, and Imprisonment during life, by 1 *Eliz.* chap. 2. And by 2, and 3. *Ed.* 6. if still in force, he is to suffer also for the first offence 10 li. and, that not paid in six weekes after conviction, Imprisonment three months without bail. For the second offence 20 li. which, if not paid in six weekes after conviction, Imprisonment six months without bail. And for the third, the losse of all his goods and chattels, and Imprisonment during life. As *Goldf. Rep.* 146. and li, 243. Where the Justices did commit in such a case out of Sessions. But the Act of *Sept.* 1656. is not of use to us. Neither the Acts and Ordinances 28 *Agust.* 1647. 8th of *Novemb.* 1644. 14. *Aprill* 1648. and *August* 1654. and 17 of *Septemb.* 1656. about the disturbance of ejected Ministers, are of no use at this day.

SECT. 7

DEanes and Chapters, Heads and Fellows of Colledges and Halls, Professors and Readers in either Univerſitie, are to make the
I same

Deanes and
Chapters

same acknowledgment and Subscription touching the Covenant as Ministers under pain of losing their places. See is before, Chap. 3; Sect. 3.

School-Masters.

And for Schoolmasters it is thus, 1. That no Schoolmaster of a private family may teach School there without the Bishops licence under his hand and Seal, *sub pena*, for the first offence three months Imprisonment without Bail, for the second and every after-offence 5*li.* and Imprisonment for three months without Baile, 14 Car. 2. But for this, there is no way of Conviction set down, and therefore nothing can be done upon this Branch, out of the Sessions.

In the Sessions.

2. That every Schoolmaster in publique or private, must subscribe the Declaration against the Covenant in such sort as the Ministers, and others are to doe; or to lose his place, 14 Car. 2. See before Sect. 3.

Observations.

Upon this new Law, these things only seem to be questionable.

1. That in cases where the Act doth say, The Minister for such, and such causes, shall be *ipso facto*, deprived, whether in these cases he shall be said to be deprived without a sentence of the Bishop, and notice thereof given by him to them whom it may concern; Or not?

2. Whether the Curate of one that is non Resident upon his Living, shall be said to be within the Clause that requires the Reading of the Common-prayer once a month, or not.

3. Where power is given to the Bishop to certify a non-conformity of any man upon any branch of this Law; whether the Bishop may doe

doe this before, he hath examined the matter, and it be found true before him. Or whether he may not make a doubt herein that if he should otherwise doe it, and it fall out to be illegall, it may be a prejudice to him; Or not?

4. That where the Minister is exactly bound to all that is in the Statutes, and in the Common-prayer Book to read all the Common-prayer, and the Letany Sun-dayes, Wensdayes, and Fridayes, which is that which few doe, whether by his omission herein he be not for every time *rigore juris* liable to Indictment upon the Statute; Or not.

The Office of the Justice of Peace herein.

And upon all these Laws together before mentioned in this Chapter, these things are further to be observed.

1. That the Justice of Peace hath nothing to doe at all upon the Canon-Lawes.

2. That he hath not to doe now to punish Heresies and Errors upon the pretended Law of 17 Sept. 1656. nor 9th, *August*. 1650. for that which was formerly accounted for a Law in this, is now of no force and void. So also, for the Acts 23 *August* 1645. 26 April 1645.

3. Nor can he doe any thing more upon the former Laws about this, otherwise than with the rest of his fellow Justices, and this also in the Sessions of the Peace by way of Indictment Traverse and the finding of a Jury in all the Cases; and upon the new Law of 14 Car. 2. the Justice of Peace hath nothing at all to doe, but what he hath to doe in these following Cases.

Lecturer.

1. In the Case of a Lecturer. That where he shall preach or read a Sermon in any publique Church, before he be approved, and allowed by the Bishop or Guardian of Spiritualities under Seal before he hath read the 39 Articles and declared his assent thereunto before him that give his Licence; There any two Justices or the Major or other Officer of the place upon a Certificate from the Ordinary of the place to them or him of the offence committed, may and must commit him to the Gaol of the Countrey, for three months without Bail upon 17 *Car*. 2. So if any such Lecturer shall preach in any other place before he hath conformed, and read Common-prayer, and upon 14 *Car*. 2. declared his assent (as before) in his own parish Church, any two Justices may commit and punish him as before 14 *Car*. 2.

Minister.

Common-prayer.

Sacrament.

2 In the Case of him that keeps a Curate. That where he shall not himself once a month (not having an Impediment to be allowed by the Ordinary) read Divine Service by the new Common-prayer Book, and (as occasion is) administer each Sacrament, and other Rites according to the said Book, for the 5*li*. penaltie; Any two Justices may upon the confession of the party, or proof by oath of two credible witnesses (which oath they may administer) commit the party, and require payment of the 5*li*. and in default of payment, in ten dayes, serve their Warrant to levie it by distresse and sale of goods, rendring the overplus. Upon 14 *Car*. 2.

Minister.

3. In the Case of disturbance of a Minister in his Preaching, or Administration of the Sacrament

crament. If the Constable shall bring the Offender to any Justice, he is to commit him to safe Custody; and then with another Justice, to examine the offence: And if it be proved by two Witnesses, or confessed by the Offender, commit him to Prison for three Moneths without Bail, and after to bind him to the next Sessions; where, if before the Justices, he shall declare his Repentance for his fault, he is to be delivered, giving of Surety for his Good Behaviour for a year. And this Repentance, if he refuse there to declare, he is to be sent back to the same Gaol, and there to be till his Repentance, upon 1 *Mary*.

3 And yet see 1 *Eliz.* 2. And consider, if part of this last Act be not repealed; and *Rastal's* Abridgement, 407. [*Dyer*, to the same purpose.

4 It seems no man is now indictable for any thing about the first Book of Common-Prayer.

5 That for any offence against 1 *Eliz.* 2. onely, no man is to be called in question, after one General Sessions, next after the offence is done, be past.

6 If any Indictment be brought upon 1 *Eliz.* 2. great care must be had in the drawing thereof; for it seems, there is some mistake in the Title of this Act. See *Dyer* 203.

7 That no general power of *Oyer* and *Terminer*, being given to the Justices of Peace, by 14 *Car.* 2. that therefore they have not to do any thing upon that Statute, save onely in the Cases we have before mentioned.

And by the King's late Directions, contained in his Letter to the Arch-Bishop, it is declared,

The Priviledge of a Minister.

First, To be his Will and Pleasure, That the Ministers shall read over to the People, the Canons that are in force once, and the 39 Articles twice, every year. See *Chap. 3. Sect. 2.*

Secondly, That the Bishops take care whom they license to preach; and that all Grants and Licenses of this kind, heretofore made by any Chancellour, Official, Commissary, or other Secular Person, be void and nul, unless the Arch-Bishop, or Bishop of the Diocess, also allow it. And that all Licenses for Preaching, hereafter to be made, by any Arch-Bishop, or Bishop, be during pleasure onely; otherwise to be void, to all intents and purposes, as if it had never been made.

Licence of the
Bishop.

CHAP. IV.

*About Common-Prayer, and the Book of Common-Prayer, upon 2 and 3d Ed. 6. 1. 5
and 6 Ed. 6. 1. 1 Eliz. 2. 14 Car. 2.*

SECT. I.

AS to this, these things are to be known.
1 That by Common-Prayer, in these Acts, is to be understood (as the Acts do explain themselves) the Prayer which is for others to come unto; And the Prayer which may be

be heard in common Churches, or private Chappels, or Oratories.

SECT. II.

There was a very great question about the former Book of *Common-Prayer*, and of the Law about it; the which, for brevity sake, we shall not so much as name: for it is now determined and settled in this new Book annexed to the Act; to which all the parts of the old and new Laws are to be applyed. For it is by this New Law enacted, That this Book shall be provided in every Parish; and that this Book, and none other, shall be used; and that divers Records of the Book shall be laid up in divers publique places for men to resort unto. And it is enacted, That all Ministers in every Church, do say their Morning and Evening Prayer, and administer both the Sacraments, according to to the Order and Form therein set forth. And that the Laws and Statutes formerly made, and now in force, for the Uniformity of Prayer, and Administration of the Sacraments, shall stand in full force and strength, to all intents and purposes, for the establishing and confirming of the said Book, entituled, &c. and shall be applyed, practised, and put in use, for the punishing of all Offences, contrary to the said Laws, with Relation to the Book aforesaid, and to none other.

This onely then is to be enquired into; what

Acts, formerly made, were in force at this time, about this matter; and what Acts may be said Acts, for uniformity of Prayer, and Administration of the Sacraments.

And for this, it seems the Statutes of 2 and 3 *Ed. 6. Chap. 1.* 5 and 6 *Ed. 6. Chap. 1.* and 1 *Eliz. Chap. 2.* are to be admitted, without question, to be such; for, their Titles are to this purpose, Uniformity and Administration of Sacraments. But for the further opening hereof, take these Particulars,

1 That the Offences about this, are either in the Minister, in not using, or using some other Prayer, or speaking against it, and the like: For which, see before, *Chap. 3.* That every Minister, having a Curate, is himself to read it once a Moneth. And every Lecturer, at his first Lecture; and the first Sunday of every Moneth after to read it. Every Minister, within two Moneths after he is inducted to his Living, is openly, in his Church, to read Morning and Evening-Prayer, according to the Common-Prayer Book, and declare his unfeigned Assent to it, &c.

2 Or, in the People; and so they will offend in these things.

SECT. III.

In the Sessions.

First, If any one by open Fact, Deed, or Threats, compel, procure, or maintain any Minister, in any Cathedral, or Parochial Church,

Church, to say Common-Prayer, or minister the Sacraments, in any other manner or form, then what is set down in this Book, or shall hinder him in doing service, according to this Book, shall, for each of these offences, forfeit one hundred Marks, for the first offence; and for not payment within six Weeks, six Moneths Imprisonment without Bayl; for the second offence, four hundred Marks; and, if not paid in six Weeks, twelve Moneths Imprisonment without Bayl: for the third offence, all his Goods, and Chattels, and Imprisonment during life, 1 Eliz. Chap. 2. And by 2 and 3 Ed. 6. for the first offence, ten pounds; and, if not paid, Imprisonment for three Moneths without Bayl: for the second offence, twenty pounds; and, that not paid, six Moneths Imprisonment without Bayl: for the third offence, all his Goods and Chattels, and Imprisonment for life. And by the 3 Ed. 6. and 1 Eliz. It is provided, That the Justices of Oyer and Terminer; and Assize, may, at the next General Sessions, after any of these aforementioned offences, against either of these Statutes committed, hear and determine them. And the Bishop of the Diocess may joyn with them herein, if he please. Also, that the Mayor and Chief Officers, of Cities and Corporate Towns, may hear and determine them. But the Justices of Oyer and Terminer, and Assize, must do it at the next General Sessions, after the offence committed, and not afterwards. And the Mayor and Officers, of Cities and Towns Corporate, must do it within 15 days after Easter, and the Feast of St. Michael, yearly. And the Indictments upon these Sta-

Justices,

Mayor;

In the Sessions.

Statutes, must be framed, and laid accordingly. The Judges also of the *King's Bench*, Justices of *Assize* and *Goal-Delivery*, may hear and determine any offence upon 1 *Eliz. Chap. 2.* And any offence within that Statute, but Treason and Misprision of Treason, the Justices of Peace may hear and determine. But it is also provided, That whosoever is punished for any of the offences, in either of these Statutes, that he be first thereof convicted by Verdict of 12 men, by his own Confession, or the notorious Evidence of the Fact. It is also provided, That the Ecclesiastical Officer shall punish any of the offences, by Admonition, Sequestration, Excommunication, Deprivation, with other Censures and Process, as he hath formerly done; but that no man be punished twice, for one and the same fault.

In the Sessions.

2 If any shall be present at any other Form of Common-Prayer, Administration of Sacraments, or making Bishops, or at any other Rites, than such as are contained in this Book; he is to suffer for the first offence 6 Moneths Imprisonment without Bayl; for the second, a year; for the third, during life. And by this Statute, the Justices of Assize, Oyer and Terminer, and Justices of Peace in their Sessions, may hear and determine it: But they cannot convict, or punish the Offender otherwise, than by the Verdict of twelve men, or his own Confession, upon Indictment, in the ordinary course of Tryal, in the Publique Sessions, Statute 5 and 6 *Ed. 6. Chap. 3.*

In the Sessions.

3 If any one shall openly speak, or declare against this Book, or deprave it, he shall be punished

nished in the same manner and measure, as he that compels or forceth the Minister to say Prayer, or administer the Sacraments in another manner, then is appointed by the Book, or that shall interrupt the Minister, in his doing it according to the Book, 1 *Eliz. Chap. 2.* 2 and 3 *Ed. 6. Chap. 1.* See it before.

4 No man may absent himself from Common-Prayer, on the fifth of *November*; but no Penalty appointed: therefore he must be punished in the ordinary way of Tryal, by Jury, &c. and the Justices are to impose a reasonable Fine, 3 *Car. Chap. 4.* In the Sessions,

5 If any speak, or act any thing, by way of Plays, Rythms, or Songs, in derogation of any thing in this Book, he is to be punished in the same measure and manner, as he that compels, or forceth a Minister to do it in another manner; or shall interrupt him in doing it, after the Form prescribed in the Book, 1 *Eliz. Chap. 2.* and 2 and 3 *Ed. 6. Chap. 1.* In the Sessions,

SECT. IV.

FROM all which, it is to be observed;

1 That there is nothing for the Justice of Peace to do, or that he can do, out of the Public Sessions.

2 That no Indictment can be now, for any Offence committed, about the former Book of Common-Prayer.

3 That for any offence against 1 *Eliz. Chap. 2.* onely, no man is to be questioned, after one General Sessions, next after the offence done, is past.

4 If

4 If any Indictment be brought upon 1 Eliz. Chap. 2. great care must be had in the drawing thereof; for, it seems, there is some mistake in the Title of this Act. See *Dyer* 203.

The Office of
the Justice of
Peace herein.

5 That these Laws are to have an Exposition, and are not to be taken literally; for, if so, then every Publique Prayer made by a Minister, before, or after Sermon, seems to be against them, and all that are present thereat, seem liable to all the great Penalties of the Statutes for the same.

6 Where no Book is provided by the Parish, it seems the Minister and People are excused, and cannot be punished, for not coming to, and not using it.

Out of Sessions.

7 And two Justices near the place, or the Mayor, or chief Officer of the place, where an incumbent Parson, or Vicar, is resident, and hath a Curate, that shall not himself read the Common-Prayer once a moneth, nor having an impediment, to be allowed by the Bishop or Ordinary, may, upon the Confession of the Offence, or upon Proof thereof, by the Oath of two Witnesses, send his Warrant to the Church Wardens, or Overseers, to levy the five pounds Forfeiture (if not paid in ten days after Conviction) by 14 Car. 2.

Out of the
Sessions.

8 That any two Justices, or the Mayor, or chief Officer of the place, where any Minister, or Lecturer, shall preach, or read any Sermon, in any publique Church, before he be Licensed by the Arch-bishop, Bishop of the place, or Guardian of the Spiritualities, under Seal; and before he hath read the 39 Articles before him, and declare his assent thereunto; or where he

he shall not the first Lecture-day, and the first Lecture-day of every moneth afterwards before Sermon, solemnly read the Common-Prayer appointed for the Day, and openly declare his assent to it, as before any two Justices, Mayor, or Head-Officer, upon the Ordinary's Certificate, of the Conviction of the Offence before him, may send him to Gaol, for three Moneths, without Bayl. But otherwise, none in the Cases mentioned in this Chapter, may (in any Case) upon any of these Statutes be punished, for any of the Offences therein mentioned, by the Justices of Peace out of their Sessions; but in their publique Sessions: And there only by Presentment or Indictment; and a Traverse, or Confession; and the Verdict of a Jury of 12 men, and not otherwise. The Justices of Oyer and Terminer or of Assize, may hear and determine the offences, upon 1 *Eliz.* 2. and 23 *Eliz.* And so may Justices of Peace also; but this must be in their publick Sessions. *Camb. Just. Peace* 12.

These Statutes then being some of them intricate and long, and the Penalties very great, it will be the wisdom of Justices of Peace, that act upon them, to do it with good advice. Caution to Justices,

See the *Common-Prayer Book* it self.

CHAP. V.

*About the Sacraments upon 1 Ed. 6. cap. 1. 9.
and 6 Ed. 6. cap. 1. 1 Eliz. cap. 2. 3 Jac.
cap. 4. and 14 Car. 2.*

SECT. I.

How they are to
be used,

AS for this: these things are to be known
out of the Lawes of the Nation.

Offences.

1. That the offences about it, are either in
Ministers, or People, or in both. And the
punishments for the same are as followeth.

By the Minister.

In the Minister. (1.) If he doth not the day
before he entendeth to administer the Lords
Supper, give notice thereof to, and exhort the
people to prepare themselves for the same.

In the Sessions.

(2) If he shall not give it to every one, that
shall humbly and devoutly desire it, upon 1 Ed.
6. cap. 1.

(3) If he shall not then give it to him in
both kindes, upon 1 Ed. 6. cap. 1. For these three
offences, there is no certain punishment ap-
pointed.

He must admini-
ster them in the
form prescribed,
under the penali-
ty set down.

In the Sessions.

(4) If he doth not, when he doth administer
the Sacraments, do it after the Form set down
in the new Book of Common-Prayer, or doth it
otherwise, he is for the first offence, to lose all
his Spiritual promotions (if he hath any) for a
year, and to be imprisoned six moneths without
Bill.

Bail. For the second offence, to lose all his Spiritual Promotions for ever, and be imprisoned 12 moneths. For the third offence, to lose all his Spiritual Promotions for ever, and be imprisoned during life. And if he hath no Spiritual promotion, he is for the first offence, to suffer a years imprisonment. And for the second offence, to be imprisoned during life, by 1 Eliz. cap. 2. See cap. 6. Sect. 3. 14 Car. 2.

(5) If the Minister be not admitted to administer the Sacraments within a year, at furthest, after his Induction into his Living, he is *ipso facto* deprived, by 12 Eliz. 13.

(6) If one administer the Sacrament of the Lords Supper, before he is ordained a Priest by an Episcopal Ordination, he forfeits 100 marks, *proving* by 14 Car. 2.

(7) If the Minister (that hath a Curate, and is himself resident on the place) do not himself administer each of the Sacraments, (as occasion shall be) according to the Book of Common-Prayer, he forfeits 5 li. See for this, Chap. 3. 14 Car. 2.

2. In the People the offence is this. (1) To be present at any other form of Administration of Sacraments, then what is appointed by the Book of Common-Prayer of 5. and 6. of Ed. 6. cap. 6. He is for the first offence, to be imprisoned 6. moneths without Bail. For the second offence a year. For the third, during life, 5 & 6 Ed. 6. Cap. 1. But Quære, if this last clause be not

By the People.

The penalty to be present at any other Form of Administration, then what is appointed. In the Session.

not gone by the last clause of 1 Eliz. 1. It seems not, and so to be resolved.

Recusant.

2. That a Popish conforming Recusant is to receive the Communion once a year at the least in his own, or in some other Parish, under a great penalty, by 3 Jac. 4. or be indicted before the Justices of Peace in their Sessions.

By Ministers or People.

3. In the Minister or People: the offences are,

To force any one to do it, otherwise then is appointed, or to interrupt him in so doing.

In the Sessions.

(1) To force any man to administer, or take it otherwise, then according to the Form in the Book. Or to interrupt him in the receiving of it after that Form. For this, he shall forfeit for the first offence 100 marks, as for forcing a man to any other Prayer, or interrupting him in this Form, upon 1 Eliz. cap. 2. See it in Chap. 6 Sect. 3.

The penalty of depraving, or despising of the Lords Supper.

(2) To deprave, despise, or contemn the Sacrament of the Lords Supper, by word or deed. For this (if he be questioned within 3. moneths) the offender is to be imprisoned, and make Fine and Ransom at the Kings Will and pleasure, by 1 Ed. 6. cap. 1.

In the Sessions.

(3) Every man is to receive the Lords Supper three times a year, by the Book of Common-Prayer, and 14 Car. 2. Otherwise he may be indicted upon Fine in some Court or other; but not before the Justice of Peace. And any man may be punished for any of these offences about the Sacrament, by the Justices of Peace in their Sessions, upon 3 Jac. 4. but the punishment of these offences, must be in the ordinary way of Indictment, or presentment of the offender.

Who may punish for these offences, where, and how.

The Office of the Justice of Peace herein.

der and his Traverse to, or confession of, the offence which must be in open Sessions. And if an Indictment be brought upon 1 *Eliz.* cap. 2. great care must be had therein; for it is said, the Title of the Act in the printed Book, is mistaken. See *Dyer* 203.

Controll to Justices of the Peace.

4. That no Person is to be punished for any offence upon 1 *Eliz.* cap. 2. unless he be thereof indicted at the next general Sessions after the offence done before the Justices of Oyer or Terminer, or of Assize. And yet 3. Justices *Quorum unum*, may take information upon Oath of two persons against the offender, and bayl him, and bind the Accuser and Witnesses in 5 *li.* a piece, to give evidence against the offender at the next Sessions. And three Justices may send out a Writ to the Bishop in the Kings name, and a *Capias* exigent, and *Capias nilagatum*, against an offender upon these Statutes. But this, and all the rest, that they have to do upon them, is to be done within, and not without, their Sessions.

Out of Sessions.

About the Sacraments.

And as to the Canons of 1603, these things are further to be known.

SECT. II.

1. **T**HAT Ministers may not refuse, or delay to Christen any Child that is brought to the Church to them upon Sundayes or Holidayes,

Ministers not to deny the Sacraments to any.

dayes, to be Christened, having notice thereof before, or the morning before it is to be baptized under pain of suspension from their Ministry for three moneths. *Can.* 68. See the Book of Common-Prayer.

2. If they be told of a Child not baptized in danger of death, and be desired to come to baptize it; if they refuse, or delay to do it, and the child die unbaptized, they may be suspended for three moneths. *Can.* 69.

How oft it is to be administred every year.

3. The Sacrament of the Lords Supper, is to be administred so often every year, that every one may receive it thrice, whereof once at *Easter*, Students in Colledges four times a year, *Can.* 20. 21. 23. And before it is done, the Minister is to give notice to the Church-wardens and people, to prepare, and to be prepared for it. *Can.* 20. 21.

Preparation must be made for it.

They must give it to them that kneel, nor refuse Common Prayer.

4. They are not willingly to give it to any, but to such as kneel, nor to any that refuse to be present at publick prayers, according to the order of the Church; nor to any that are common and notorious depravers of the Book of Common-Prayer, or of any thing contained therein, or of the Articles of Religion, or in the Book of ordering Priests and Bishops, or to any that have spoken against the Kings Supremacy, under pain of Suspension, unless the party acknowledge his fault to the Minister before the Church-wardens, and promise to do so no more. *Can.* 27. 28.

Not to them that deprave the Book of Common-Prayer, or Articles of Religion, or the Book of ordering and making Bishops, &c.

5. When they give it to others, they must take it themselves. *Can.* 20. 21.

6. They

6. They may not administer it in private houses, but where one is sick, and desireth it, Under pain of Suspension for the first, and ex-communication for the second offence. *Can.*

They may not administer it in private houses.

71.

7. They may not give it to them that live scandalous, or in malice, till Repentance, and Reconciliation. *Can.* 26.

Nor give it to the scandalous.

8. Nor to strangers of other Parishes, if they know them to come often. *Can.* 27, 28.

Nor to strangers of other Parishes.

9. They may not use any Bread or Wine, newly brought, before the words of Institution, shall be rehearsed, when the Bread and Wine is present on the Table. *Can.* 20, 21.

Not to use the Elements till Consecration.

10. That no Parent is to be urged to be present, nor be admitted to answer as Godfather to his own child: nor shall any Godfather, or Godmother, make any other answer, or speech, then by the Book of Common-Prayer is prescribed in that behalf: nor shall any be admitted to be a Godfather or Godmother, before he or she have received the Communion. *Can.* 29.

Godfathers and Godmothers to Children baptized.

11. That every Minister that hath a Benefice with Cure of Souls, and hath a Curate under him, or is a Lecturer, shall in his own Church, twice at least, every year, administer the Sacraments of Baptisme (if there be any to be baptized) and of the Lords Supper, with the observation of all the Rites set forth in the Book of Common-Prayer, under pain of Suspension. *Can.* 56.

The Minister is twice a year himself to administer the Sacraments, according to the Book of Common-Prayer.

12. The Sacraments either of them, may not be refused from the hands of un-preaching Ministers: Nor may any man leave the Minister or place, to go to another Parish or Minister for

Sacraments may be administered by unpreaching Ministers.

this cause, under pain of Suspension, and, in case of obstinacy, of Excommunication. And the Minister of another Church that shall receive such a one, and administer either of the Sacraments to him, is to be suspended for this. *Can. 57.*

Such as receive
not the Commu-
nion at *Easter*.

13. Such as are above 16 years old, and do not receive the Communion at *Easter*, are to be punished by Ecclesiastical Censure. *Can. 112.*

CHAP. VI.

About coming to Church, upon the Statutes of 5, and 6. Ed. 6. cap. 1. 1 Eliz. cap. 2. 23 Eliz. cap. 6. 29 Eliz. cap. 6. and 3 Jac. cap. 4.

Sect. 1.

The penalty for
not going to
Church, every
Sunday and
Holyday.

FOR the understanding of this, these things are to be known.

1. That by 5 and 6 *Ed. 6. cap. 1.* it is provided, That every one shall diligently and faithfully (having no reasonable, or lawful excuse, to be absent, endeavour himself to resort to his own Parish Church or Chappel accustomed, or, upon reasonable let thereof, to some usual place, where Common-Prayer, and such Service of God shall be used in such time of let, upon every Sunday, and other dayes ordained and used to be kept as Holydayes, and then and there to abide orderly and soberly, during the time of the Common-Prayers, Preachings, and other Services of God, there to be used and ministred, under pain of the Censures of the Church.

That

That in 1 *Mar.* chap. 2. this Statute by name was (amongst other Statutes) repealed, and never since revived. But that Statute of Repeal of 1 *Mar.* was since by 1 *Eliz.* cap. 2. and 1 *Jac.* cap. 25. Repealed, the which, it seems, is a Reviver of the first Statute.

2. That in 1 *Eliz.* cap. 2. it is provided in the same words, as before in 5 and 6 *Ed.* 6. That every one shall come to Church upon every such day, under pain of Church-Censures, with this addition thereunto. [And also upon pain to forfeit 12 d. to be levied by the Church-wardens to the use of the Parish, where the offence is done upon the Lands and Tenements of the offender by way of distress.]

3. That in 23 *Eliz.* cap. 1. it is provided in these words, That every person above 16 years old, which shall not repair to some Church, Chappel, or place of Common-Prayer, but forbear the same, contrary to the Tenour of a Statute made in the first year of her Majesties Raigh for Uniformity of Common-Prayer; And being thereof lawfully convicted, shall forfeit to the Queens Majesty, for every moneth after the end of this Session of Parliament, which he, or she, shall so forbear, twenty pounds of lawful English money. And that, over and besides the said Forfeiture, every person so forbearing, by the space of 12 moneths, as aforesaid, shall for his, or her obstinacy, after Certificate made in writing, into the Court commonly called the Kings Bench, by the ordinary of the Diocess, a Justice of Assize and Goal-delivery, or a Justice of Peace of the County, where such offender shall dwell or be, be bound with two sufficient

The penalty for not going to Church for a moneth together.

The penalty for not going to Church in a year together.

In the Sessions.

Sureties in the sum of 200 *li.* at the least, to the good behaviour; and to continue bound untill such time as the person so bound, do conform himself, and come to the Church, according to the true meaning of the Statute, made in the first year of the Queens Majestie's Raigñ. But this 20 *li.* a moneth, the King if he please, may relinquish, and instead thereof, take two parts in three, of all his Land and Leases. And if he cannot pay the 20 *li.* he is to be committed to prison till he do pay it. But if this be the first offence, the offender may before Judgment had against him, submit and conform before the Bishop of the Diocess, or Justices of the Peace in their open Sessions where he is indicted, and so be discharged of all the offences, but Treason, and misprision of Treason, within 23 *Eliz.* cap. 1. 29 *Eliz.* cap. 6. 3 *Jac.* cap. 4.

The penalty of keeping such in his house, that will not go to Church.

4. That by 3 *Jac.* chap. 4. It is provided, That he that shall keep in his house a Servant, Sojourner, stranger, or Schoolmaster, that shall refuse to come to Church for a moneth together, or a Schoolmaster not allowed by the Bishop, forfeits 10 *li.* And the Schoolmaster is disabled to teach for ever afterwards, and is to be imprisoned a year without Bail, upon 23 *Eliz.* 1. And such as have Divine Service in their houses, and are commonly present at it, and are at least four times a year at the Divine Service in the Parish-Church, or some other open Chappel of Ease, are not to incur any of the penalties upon 23 *Eliz.* 1.

In the Sessions. Not to go to Church every Holiday.

5. That by this Statute of 3 *Jac.* cap. 4. it is further provided, That if any one resort not every Sunday, to some usual place of Common Prayer,

Prayer, and there hear Divine-Service, according to the Statute made 1 *Eliz.* He may within a moneth after the offence done, if he cannot make some good excuse for his absence, be convicted before any one Justice of Peace, upon his own confession, or the Oath of one witness, and by warrant from this Justice to the Church-wardens of the place, they may levy the money to the use of the poor of the place. But he that hath been punished upon 1 *Eliz.* is not again to be punished upon this Statute of 3 *Jac.* And he that is for his offence punished by the Ecclesiastical Officer, is not to be punished again by the Civil Officer. *Et sic e converso.*

The Forfeiture.

Out of Sessions.

6. That it is further provided by the said Act of 3 *Jac.* cap. 4. (the Title, Preamble, and Body whereof, is all about Popish Recusants, save onely in the Branch last before named) That such of them as did, or should conform, and come to Church, should also receive the Communion at least once a year in their own Parishes. And that the Church-wardens and Constables of every Parish, should once a year at least, present the monerthly absence of them from Church: and some other things there are concerning them therein.

Recusant.

Communion.

Church-wardens
Constables.

7. That it was provided by 35 *Eliz.* cap. 1. That if any one doth obstinately refuse for a moneth together, to go to Church, and shall persuade others against the Kings Authority, in Causes Ecclesiastical; Or to that end, shall persuade others not to go to Church, or not to receive the Sacrament according to the Laws; or to come to, or be present at unlawful Conventicles, under colour of exercise of Religion against

Sect. 3.

The penalty of refusing to go to Church, and persuading against the King's Supremacy.

In the Sessions.

the Lawes and Statutes. For this, he is to be committed to prison without Bail, till he conform, and make an open submission, as is set down in the same Statute. And so also by the same Statute of 35 *Eliz.* That if one keep, or relieve any Friend (if it be not a Father, or Child, or some such near Relation, that hath no other place of Residence) that shall refuse for a moneth together to go to Church, after he is warned by the Bishop, Justice of Assize, Goal-delivery, or a Justice of Peace of the place, to put him away, he will forfeit 10 *li.* for every moneth he shall keep him. But it is conceived, that this Act of 35 *Eliz.* cap. 1. hath as much of
 X doubt in it. For which, see chap. 9. *Sect.* 4.

How these offences may be punished, and by whom.

8. It is provided by the Acts of 1 *Eliz.* cap. 1. 3 *Jac.* cap. 4. 23 *Eliz.* cap. 1. That the Judges of the Kings Bench, Justices of Assize, and Goal-delivery, may, in the ordinary way of Indictment or presentment, hear and determine any of the offences about Recusants their not going to Church, nor receiving of the Sacrament, upon the said Acts of 3 *Jac.* cap. 4 and 23 *Eliz.* cap. 1. And these Justices also, and the Justices of Oyer and Terminer, may hear and determine any offence upon 1 *Eliz.* cap. 1. And the Justices of the Peace at their Sessions, may also, at least within a year and a day after the offence done, hear & determine any of the offences but Treason, and misprision of Treason, upon 3 *Jac.* cap. 4. 23 *Eliz.* cap. 1. And any of these Justices of the Kings Bench, and Goal-delivery, or of the Peace where an Indictment is before them for Recusancy, may make proclamation, that the party yield himself to the Sheriff. And if

Proclamation to be made against a Recusant.

if then he appear not at the next Assizes or Sessions, he is convict of the offence, by 3 *Jac.* cap. 4.

9. That by 3 *Jac.* cap. 4. No Indictment for not coming to Church, is to be made voyd, or discharged, for lack of Form, or other matter, untill the party conform and come to Church, by 3 *Jac.* cap. 4.

No Indictment to be removed for lack of Form, till the party conform.

10. By all these things, it appeareth, the offences about this matter of coming to Church, and the punishments of them are as followeth.

The Offences and punishments

1. Not to resort to, but to absent a mans self from his own, or (upon reasonable cause) to some other Parish-Church or Chappel, where Common-Prayer is used, to hear the same on every Sunday and Holyday, and then, and there to abide soberly and orderly, during the time thereof; For this, the offender is to be punished by the Censures of the Church and to pay 12 d. a time for his default, upon 1 *Eliz.* cap. 2. 3 *Jac.* cap. 4. 23 *Eliz.* cap. 1.

Not going to Church every Holiday.

2. To forbear after 16 years of age, to come to Church for a moneth together, not having good cause for it; For this, the offender doth forfeit 20 li. a moneth to the King, besides the 12 d. a day. By 23 *Eliz.* cap. 1. which the King may refuse and take the Thirds of all his Lands and Leases. And if he have not to pay the 20 li. he must be imprisoned, upon 23 *Eliz.* cap. 1. 29 *Eliz.* cap. 6. 3 *Jac.* cap. 4.

Not to go to Church in a moneth together.

3. To forbear after 16 years of age, to come to Church for a year together: For this, the offender is to be bound to the good Behaviour, till he conform, and come to Church, upon 1 *Eliz.* cap. 2. 23 *Eliz.* cap. 1.

4. To keep one in his house, a Servant, Sojourner,

journer, stranger, or Schoolmaster, that shall refuse to go to Church a moneth together; for this, he forfeits 10 li. upon 3 *Jac.* cap. 4.

5. To refuse obstinately for a moneth to go to Church, and to perswade others nor to go to Church, or to go to Conventicles, or against the King's Authority, in Ecclesiastical matters. For this, he is to be imprisoned without Bail, till he submit and conform, upon 35 *Eliz.* cap. 1. And to keep, or relieve a friend (if it be not a very near Relation that hath no place of Residence) after he is warned by the Bishop, Justice of Assize, Goal-delivery of the Peace, to put him away, that shall refuse for a moneth together to go to Church. For which, he shall forfeit 10 li. a moneth, for so long as he shall keep him, upon 35 *Eliz.* 23. But of this Statute-Law (as we have said) there is by the Justices of Peace, some question to be made. See it before, *Sect.* 3.

Sect. 4.
The Case.

This then being the Abridgment of all the Statutes, as to this matter, the Case upon them will be this; That by the Stat. of 5 and 6 *Ed.* 6. Every one is required to resort to Church, and abide there orderly every Sunday and Holiday, under pain of Church-Censure. This Statute was 1 *Mar.* cap. 1. repealed. This Statute of Repeal, was by 1 *Eliz.* c. p. 1. and 1 *Jac.* cap. 25. repealed. But the Act of 5 & 6 *Ed.* 6. never revived. That 1 *Eliz.* cap. 1. it was then again enacted, That every one should go to Church, and there abide orderly every Sunday and Holiday, under pain of 12 d. for every default. That in 23 *Eliz.* chap. 1. it is provided; That he that is 16 years old, and shall absent himself from Church a moneth together, contrary to the Tenour

nour of 1 Eliz. he shall forfeit 20 li. for every moneth he shall so forbear. And that if he forbear 12 moneths together, after a Certificate made hereof into the Kings Bench, he may be bound to the good Behaviour, till he conform, and come to Church. But the Act, doth not express how the offender shall be convicted, or whether a Certificate may be made by the Bishop or Justice, without a Conviction, nor who is upon this Certificate to bind him to the good Behaviour.

This then being the Case. These Doubts and Questions may hereupon be moved.

Sect. 5.
Observations.

1. What shall be intended by these words, [endeavouring himself to go to his Parish Church] and where a man shall be said so to do, or not.

2. How these words in the Acts [and there abide soberly, &c.] shall be taken. As if one that in heart is against the thing, shall come to Church, and stand under the wall, or sit in the Porch, or in some obscure place all the time, or in the place, but doth no more joyn in the Service then a child, or a dog, that is present; What can be done in this Case to him? if this answer the words, it doth not answer the intent of the Statutes, and how this deceit may be prevented; or one come thither and sleep there. And upon 5 & 6 Ed. 6. 1. whether by that Law, every man be bound to the Morning and Evening Prayer both, or one of them only.

4. How the Ordinary of the Diocess, or Justice of Assize, & Goal-delivery, or Justice of Peace, may send his Certificate against one that absents himself from Church a year together, whether the offender must not first be convicted of the offence

fence where the Stat. it self prescribes no way of Conviction, how this can be but in the ordinary way of Tryall.

5. In what Court, and by what Judges, the Offender may be bound to the Good Behaviour.

6. The Act of 23 *Eliz.* being to this purpose, That he that shall forbear, contrary to the tenour of the Statute of 1 *Eliz.* to come to Church once a moneth, is to forfeit 20 pounds a moneth; and besides, if a year, to be bound to the Good Behaviour also. And the tenour of this Statute is, That every one that hath not good cause to the contrary, is to come to Church every Sunday & Holiday. It is to be enquired then, 1. Whether every one that is not at Church once every Holiday, doth not, *rigore juris*, by this Law forfeit his twenty shillings a moneth.

2. Whether every man be bound exactly, at all times, to all things in the Acts, touching this thing; for, if so, there will scarce be found a man, that may not be found faulty, in one thing or another, and so indictable, & punishable for it. See the Book of *Common-Prayer*, 14 *Car.* 2.

3. That these things seem to be clear upon the Statutes.

1 That if the Offender be not called in question for his offence, within a moneth after it is done; or, being so, he is able to give a good reason, for his absence from Church, any Sunday, or Holiday, that he is not to pay his 12 *d.* a week, upon 1 *Eliz.* Chap. 2. and 3 *Jac.* Chap. 4.

2 That no man is to be questioned for any offence, upon 1 *Eliz.* cap. 2. before the Justices of Oyer and Terminer, or of Assize, after the

next

The Justices Office in this,

next General Sessions, after the offence is done, be past.

3 That no Judges, or Justices of the Peace, may bind any man to the Good Behaviour, for absenting himself from Church twelve moneths together, upon 1 *Eliz. cap. 2.* and 23 *Eliz. cap. 1.* till a Certificate of the offence be first sent by the Ordinary of the Diocess; or, by a Justice of Assize, and Gaol-delivery, or a Justice of Peace of the County, where the Offender doth dwell.

4 That if any Indictment be framed upon these Statutes, or any of them, it must be done with great Caution; for, some of the Offences, named in some of the Acts, are not offences, but when joyned together with other offences; and some are offences (though single, and without others.) And the Indictment must be framed according to the Act.

5 That in all Cases, upon these Acts, for any offence done against them, or either of them (save onely for the not going to Church every Sunday, and the 12 *d.* Forfeiture for the same) no Offender can be punished, or Penalty be inflicted, until the Offender be duly convicted of his offence. And this must be by Indictment, or Presentment, in the ordinary way, Traverse and Tryal upon it, or Confession of the Parry, and Judgment thereupon.

6 That for any thing, as to coming to Church, against the People, there is nothing at all added by the new Law of 14 *Car. 2.* but the Law is in this, as it was before. Nor have the Justices, by that Law, any thing to do in their Sessions. Otherwise,
it

it is without question, that the Justices (in their Sessions) have power to hear and determine the other offences: For by 3 Jac. 4. the Justices may hear and determine all offences, for not receiving the Sacrament according to that Act; and, for not coming to Church, according to former Laws.

Caution to the
Justices.

Out of Sessions.

These Statutes then being so many, and some of them so intricate; it will be the wisdom of the Justices of Peace, and all others, that shall act any thing upon them, to do it with good advice. But this is without question, That Proof being made by one Witness, to any one Justice, against any person, that he doth not go every Sunday, to some Church or Chappel; or the Party himself confessing it, the Justice may call the party before him; and if he cannot shew a good excuse for it, he may send his Warrant, under his Hand and Seal, to the Church-Warden of the Parish, to levy, by distress, and sale of goods, 12 d. and, for lack of distress, to send him to Prison, till he pay it. But this must be done within a moneth after the offence committed. 3 Jac. 4. And this the Justice may safely proceed upon.

Out of the King's Letter before-mentioned, directed to the Arch-Bishop, it is enjoyned.

First, That the Minister do, as oft as he can, read the Prayers of the Church himself; and when he cannot so do, that he procure or provide some fit Person, in Holy Orders, to do it, with such gravity, distinctness, devotion, and reverence, as becomes so holy an Action.

Secondly,

Secondly, That if he wants time for his Sermon and Common-Prayer, both at length; that he rather shorten his Sermon, then omit any thing of the Prayers, lest he incur the Penalty of the Act for Uniformity, requiring them to be read, as the Book directs.

CHAP. VII.

About Ceremonies, and Rites, and Ornaments,
upon 1 Ed. 6. Chap. 1. 2 and 3 Ed. 6.
Chap. 1. and 1 Eliz. Chap. 1. 14
Car. 2.

AS to this, these things are to be known out *sect. 1.*
of the Statute-Laws.

1. That it was ordained, by 1 Eliz. cap. 1.
That such Ornaments of the Church, and the
Ministers thereof, as were used 2 Ed. 6. and
appointed by the Act of the 2 and 3 Ed. 6. cap.

1. That such should be used, until other order
were taken by the Queen, and the Commission-
ers then appointed in Causes Ecclesiastical:
the which thing (it seems) was then thought
of, as necessary, or convenient to be done; but it
was never done.

2. The Offences herein also, are either in
the Minister, or in the People, or in both.

*The offences and
punishments.*

1. In the Minister; If that he, in admini-
string of the Sacraments, in any Cathedral, or
Parish Church, shall wilfully, and obstinately
stand-

In the Minister.

The Penalty for using any other Ceremony, then what is appointed.

standing in it, use any other Rite or Ceremony therein, than what is appointed, he shall forfeit for the first offence, the profit of all his Spiritual Livings for one year (if he hath any) and be imprisoned six Moneths without Bail. For the second offence, he is to lose all his Spiritual Promotions for ever, and to be imprisoned for a year. And for the third offence, to lose all his Spiritual Promotions for ever, and to be imprisoned during life, upon 1 *Eliz. Cap. 2.* And by 2 and 3 *Ed. 6. cap. 1.* in case the same Act be in force (as it seems to be) the Offender is also, for the same offence, to suffer the first time, the loss of any one of his Spiritual Promotions, which the King shall please to take, for one whole year, and Imprisonment for six moneths, without Bail. For the second offence, the loss of all his Spiritual Promotions, and Imprisonment for a year. And, for the third offence, Imprisonment for a year. And if he have no Spiritual Promotion; then for the first offence, 6 months Imprisonment, without Bail. And for the second offence, Imprisonment during life. And hereupon it is to be observed, That if the *Act* of 2 and 3 *Ed. 6.* be still in force (as it seems to be) then must this Offender suffer also the Penalties of that Statute (for this offence) twice; and that such of them as are capable of doubling, must be doubled.

Observation.

The penalty of a Ministers refusal, to observe the Ceremonies appointed, or to deprave them; and to refuse the second time the Oath of Supre-

2 If a Clergy-man shall wilfully refuse, to observe these Orders and Rites, or shall openly deprave the same by Word or Deed, after publique admonition by the Bishop, and shall refuse the Oath of Supremacy the second time, it being duly tendered to him; this may be Treason, by 5 *Eliz. cap. 1.* All these Laws are now re-

re-

revived and confirmed, by 14 Car. 2. as to the Common-Prayer Book. And this is added, That where a Minister, that hath a Benefice with Cure, and is resident upon it, and hath a Curate under him, and doth not once a moneth himself read the Common-Prayer, and administer the Sacraments, and other Rites of the Church, as in the Book of Common-Prayer is set down, he forfeits five pounds, to be levied by Warrant of two Justices. See for this Chap. 4. Sect. 4. And, by this New Law, the Sign of the Cross is to be used in Baptism, and kneeling at the Lord's Supper, and at the Prayers, and standing up at the Creed, and some other Ceremonies, are to be used by Ministers and People. And for not doing hereof, a man may be indictable, 14 Car. 2. but not before the Justices of the Peace.

Treason

Sign of the Cross.
Kneeling at the Lords Supper.

3 In the people: If any of them shall be present at, or joyn in any of the publique Services; wherein other Ceremonies, then what are appointed, shall be used; he is, for the first offence, to be imprisoned six moneths without Bail. For the second offence, twelve moneths. And for the third offence, during life, upon 5 & 6 Ed. 6. cap. 3.

In the People.
Sect. 2.

The penalty, for using any other Rites: then what are appointed.

4 It was in 1 Eliz. cap. 2. provided, That the Ordinary should punish the things in that Act, as was formerly used: But he that is punished in the Spiritual Court, is not afterwards to be punished in the Civil Court, & sic e converso. But no man may be punished for any of these offences, any other way, but by Indictment, or Presentment; and a Traverse and Tryal, or a Confession of the Party presented,

In the Sessions.

The Office of the Justice herein

In the Sessions, or indicted thereupon in the open Sessions. And care must be had, in the framing of an Indictment, upon 1 *Eliz. cap. 2.* for it seems, the Title of the *Act*, in the Printed Book, is mistaken, *Dyer 203.*

Mayor and Head-Officers of Corporations.

5 Justices of *Oyer* or *Terminer*, and of *Affize*, at their Open and General Sessions, may hear and determine any thing within the *Act* of 1 *Eliz. cap. 2.* And herein the Bishop of the Diocess may joyn with them also, if he please.

Mayor of a Corporation.

Also, the Mayor and Chief Officers, of Cities and Corporations, may hear and determine all offences of 1 *Eliz. Cap. 2.* within 15 dayes after *Easter*, and *St. Michael* the Arch-Angel, in the like manner as the Judges may do, by 1 *Eliz. cap. 2.*

Within what time the Offender is to be punished.

6 That no person is to be punished, upon 1 *Eliz. cap. 2.* for any offence within this Statute, unless he be thereof indicted at the next General Sessions, after the offence done, before the Justices of *Oyer & Terminer*, or Justices of *Affize*. See *Chap. 3.* more of these things.

Justices of Peace.

7 That there is nothing about Ceremonies, for which the people may be punished, upon the New Law of 14 *Car. 2.* Unless it be for refusing to kneel, or to have his child Christened with the Sign of the Cross. And for this, he is indictable; but not before these Justices of Peace.

Observation.

8 This thing onely, in this New Law, and the Old Laws together, seems to be a little inquirable unto; that there being so many things, by the Book of Common-Prayer, required in the Gestures of the Minister and People, That some things they are to read with a loud voyce.

Some

Some things the Priest is to say standing; as the *Absolution*, *Creed*, &c. Other things he is to read kneeling; as the *Prayers*. Some things the People are to say standing, as *Gloria Patri*, the *Creed*, &c. And some things they are to pray kneeling, as the *Prayers*. And all the Prayer to be read, and Ceremonies to be observed, every day, Whether for any omission herein, the Minister, or People, be not, *rigore juris*, in extremity, indictable for it, and so liable, to all the Penalties appointed to be inflicted for the same, or not. And if that Law shall be literally taken, how men shall endure to kneel so long, as the whole Common-Prayer time.

Of Ornaments.

Such Ornaments of the Church, and Ministers thereof, are, at all times of their Ministration, to be retained and used, as were, in the Church of *England*, by Authority of the Parliament, in the second year of *Ed. 6*. See at the beginning of the Common-Prayer, and 14 *Car.* 2.

SECT. IV.

About Ceremonies and Rites.

AND, as to the *Canons* of 1603. this is to be known.

1. That Ministers must observe the Orders, Rites, and Ceremonies, in the Book of Common-Prayer, in reading of Scriptures, saying Prayers, and administration of Sacraments,

L 2

with

Ministers must observe all the Rites in the Common-Prayer Book.

Sect. 3.

without lessening it, in regard of Preaching, or adding any thing in the matter or form thereof, *Can.* 14.

To wear a Surplice.

2. That every Minister is herein to wear a decent Surplice, to be provided by the Parish, at the discretion of the Ordinary; and Graduates upon their Surplices-hoods according to their degrees in the University. And others, that are no Graduates, a Tipper of Black, if it be not Silk, *Can.* 58.

The Rites to be used in Colledges and Halls, and both the Universities.

3. That in the whole Divine Service, and Administration of the Communion, in all Colledges and Halls, and in both the Universities, the Orders and Ceremonies shall be duly observed, as they are set down in the Book of Common-Prayer, without any omission or alteration.

What they are to wear there.

4. That Masters and Fellows of Colledges or Halls, and all the Scholars and Students, in either of the Universities, shall, in their Churches and Chappels, upon all Sundays, Holidays, and their Eves, at the time of Divine Service, wear Surplices, according to the Order of the Church; and Graduates, such Hoods with their Surplices, as do belong to their Degrees, *Can.* 17.

To be uncovered in the Church at Common-Prayer.

5. That no man is to cover his head in the Church or Chappel, in the time of Divine Service, except he have some infirmity; and then with a Cap, or Coif onely. All men are to kneel, whiles the General Confession, Letany, and other Prayers, are read; and to stand up at the Belief, according to the Book of Common-Prayer. And when ever, in time of Divine Service, the Lord Jesus shall be mentioned, due and

Kneel at Prayer.
Stand at the Creed.

Bow to the Name of Jesus.

and lowly Reverence must be done, as hath been accustomed, *Can. 18.*

6. That Copes are to be worn in all Cathedral Churches, by those that administer the Communion, by *Can. 24.* And Surplices and Hoods, in Cathedral Churches, when there is no Communion, *Can. 25.*

Copes, in Cathedral Churches, to be used.

7. That the Sign of the Cross is to be used, and not omitted in Baptism, by *Can. 30.*

The Cross to be used in Baptism.

CHAP. VIII.

About Oaths.

SECT. I.

About Forbidden Oaths.

NO Ecclesiastical Judge, or Officer, may now impose the Oath *Ex Officio*, or any such like Oath, upon any man, at this day, *13 Car. 2.*

Ex Officio.

If any commit any wilful Perjury, or suborn another, to commit such a Perjury, in a Court of Record, Court-Baron, or Hundred-Court, about Lands or Goods, Debts or Damages; this is punishable, before the Justices of the Peace in their Sessions. He that commits it, forfeits twenty pounds, and is to be imprisoned six Moneths without Bail, and disabled to give Testimony, whiles that Judgment doth stand. And if he have not to pay the Fine, the Sheriff (in

Perjury.

the County) or Head-Officer in a Corporation, is to set him in the Pillory, in some Market-place, and to have both his ears nailed. And for subornation of Perjury he forfeits 40 *li.* and, for want of ability to pay, to be six moneths imprisoned without Bail; to stand on the Pillory an hour, and to be disabled to give his Testimony in any Court of Record, until the Judgment be reversed; by 5 *Eliz. Chap. 9.* 13 *Ed. 1.1.* But the Justice's Power herein, is all of it to be executed in the Sessions, by way of Indictment, and not otherwise.

Swearing and
Curfing.

Out of Sessions.

As to him that shall offend against 21 *Jac. Chap. 20.* by Swearing or Curfing; in this Case, any one Justice may convince him of this Offence (so as it be done within twenty days after the offence committed) by his own Confession, or by the Oath of two Witnesses; and then may send his Warrant to the Constables, Church-Wardens, and Overseers, to levy of the Goods of the Offender (if he be above twelve years old) twelve pence, for every oath, to the use of the Poor of the place; and, for lack of distress, to put him in the Stocks three hours. But if he be under twelve years old, then he is to be whipt by the Constable, or by the Parent, or Master, in the Constable's presence, 21 *Jac. 20.* But for the *Act* of the 20 of *June, 1650.* this is now out of doors, and of no use to us. And it seems questionable, Whether the Justices may do any thing at all in the Sessions, upon this *Act* of 21 *Jac.* And yet if one shall swear in their presence, they may (perhaps) punish him as an Offender, under one of the general words of their Commission, by the Common-Law.

SECT,

SECT. II.

About the Oath of Supremacy, upon the Statute
of 1 Eliz. cap. 1. and 5 Eliz. cap. 1.

THE effect of both these Acts, are to this purpose.

1. The Form and Words of the Oath, are set down, 1 Eliz. 1.

Who were to take it; and before whom.

2. Divers Officers, Ecclesiastical and Civil (then in being) were enjoined to take it.

3. It was ordained, by 5 Eliz. Chap. 1. for future times, That all such as should be promoted by the Queen, to any Ecclesiastical, Temporal, or Lay-Ministry, or Promotion; that all such as should take Orders, or be preferred to any Degree of Learning, in any University; that all such as should take Holy Orders; that all School-masters, and publike and private Teachers of Children; that all utter-Barriers, Benchers, Readers, Antients, and such as take Degrees in any Inns of Court; That all principal Treasurers, and such as be of the Grand Company of every Inn of Chancery; That all Attornies, Prothonotaries, and Philizers, towards the Law; That all Sheriffs, Escheators, and Feodaries; That all Persons that should be in any Ministry, or Office at the Common-Law, or other Law; or that should belong to any Court, or to the Crown, or be retained into the Queen's Service; and that all Knights, Citizens, and Bur-

ges of Parliament; that all these should be bound to take it.

4. The *Act* doth appoint before whom these Persons should take, and who should have power to minister it; amongst which, the Justices of the Peace are none.

The Penalty for
refusing to take
it.

Præmunire.

High-Treason.

5. It is further provided, by 5 *Eliz.* 1. That if any of those persons, to whom the Oath was to be so administered, when the same should be duly tendered to them, by such as were appointed to tender, and give it, should wilfully refuse it, and be within a year after attainted thereof, that he should be in danger of a *Præmunire*. And if the same should be again tendered the second time, three moneths after the first tender, and he refuse it again; or, if he be formerly convicted, of maintaining the Jurisdiction of the Bishop or See of *Rome*, this will be High-Treason, in case he be a Spiritual Person, or hath Office in the Church, or in any Ecclesiastical Court; or shall refuse the Orders and Rites of the Church for Divine Service, after that he hath had publick Admonition by the Ordinary, or some Officer for Ecclesiastical Cause; to keep them; or such as shall say, or hear private Mass, or shall by Word, Writing, or other publike Act, openly deprave any of the same Rites or Ceremonies used, by 5 *Eliz.* chap. 1. and none others are compellable to take it, upon a second Tender, or to be in danger by the Refusal thereof. And they that have Authority to take this Oath, before whom such Refusal is made, are within forty days, (if

(if it be Term time) or the first day of the next Term, to certify under their Hand and Seal, the Name, Place, and Degree, of the person so refusing, in pain of one hundred pounds, upon 5 Eliz. 1. See Chap. 3. Sect. 3.

5. Any of the offences against this Statute, (but Treason, and Misprision of Treason) are inquirable before the Justices of the Peace, in their Quarter-Sessions, within a year after the offence is done, by 23 Eliz. cap. 1. But there must be two Witnesses, *viva voce*, to convict an Offender upon this Statute, of 1 Eliz. chap. 1.

The Justices Office in this.

In the Sessions.

By all which it appeareth,

1. That the Oath that is to be taken in this case, must be taken in the very words set down in the Statute.

Observations

2. That no other man is compellable to take this Oath, but the persons before set down.

3. That none may tender or administer this Oath, but the persons named, and authorized by the Statute.

4. That where it is tendered, to make a man a Refuser, it must be formally tendered, having the Oath, and a Bible before him. And it seems therefore, if one authorized to give it, shall only ask one bound to take it, Whether he will take it, and not tender the Books to take it, that this is not sufficient.

5. That it seems reasonable, if the Party desire it, that he should have a reasonable time to consider of it, at the least, he must have time to read it, or hear it read.

The Justices Office in this.

6. That

The Justices Of-
fice in this.

6. That no Justice of Peace, by vertue of that Office, may either require the giving of, or give, this Oath.

7. That no man is to be punished for his Refusal, to take this Oath, until he be first convicted of this his Refusal, in the ordinary course; which is, by Indictment of the Person, and his Traverse or Confession upon it. And upon the Tryal, on the Indictment also, there must be (by the express words of the Act) two Witnesses present, face to face, if there be so many alive of them, that can prove the Fact.

Observation.

Let it be observed then, how unwarrantable and dangerous a thing it is, for Justices of Peace, or others, not authorized by the Statute, to tender or minister the Oath to some, out of their own Counties; and that onely by asking them, Whether they will take it? And upon such a Refusal, as to say, They will consider of it, or the like, to send the Party to Gaol. It concerns the Justices of Peace therefore to be cautious herein; and, in all that they do, strictly to pursue the Direction of the Statute.

Caution to Ju-
stices,

S E C T.

SECT. III.

About the Oath of Obedience or Allegiance, upon the Statute of 3 Jac. cap.4. and 7 Jac. cap.6.

THe effect and Tenor of 3 Jac. cap 4. is to this purpose.

1. The Title of this Act, is for the discovering and repressing of Popish Recusants; and the Preamble, and whole Act, is altogether about such kind of persons.

2. The Oath to be taken, is set down in the very words, wherein it must be taken.

3. All persons of 18 years old, and upward, (other then Noblemen, and Noble Women) being convict, or Indicted of Recusancy, or for not going to Divine Service, or not receiving of the Sacrament twice in the year last before, according to the Lawes of the Realm, and such as passe through the County unknown, and, being examined, shall confess, or not deny, that they are Papists, or that they have not received the Sacrament twice the last year before: And such as are to go out of the Realm to serve a Forreign Prince, are bound to take it: these last, are also to enter into a Bond, and, if they go out, and omit either of them, it is Felony.

Who were to take it. And before whom.

4. That to all such persons (except Noble men and Women) the Bishop within his own Diocess, or any two Justices of the Peace (*Quorum unus*) out of Sessions, within their own Counties, might have tendered it, and given it. And to Noble-men, and Noble-women, six of the Privy-Council might have tendered it, and given it.

Felony.

Out of Sessions.

5. It

5. It is further provided by the said Act, that the Bishop within his Diocese, and the two Justices of the Peace, *Quorum unus*, within their limits, before whom the Oath was to be taken, might have required the persons to whom they might give it to take it. And if thereupon, such person refuse to take it, the Bishop or two Justices, may commit the party to Goal, till the next Assizes, or General Quarter-Sessions, and then it may be tendered to him again; and if then he again refuse it, he shall be in a *Premunire*. So that upon this Statute, such persons authorized to give the Oath, may not tender it to any person, but to such persons as are for the Reasons laid down, suspect of Popish Recusancy.

6. The Tenor and effect of *7 Jac. cap. 6.* is as followeth.

1. The first Clause thereof is, That all sorts of persons whatsoever, then in being, should take it.

2. Is set down, before whom, such persons, and all others afterwards in their Case, should take it.

3. It is then added further, That any ^{one} ~~Sonne~~ of the Privy Councel, or any Bishop in his Diocese, may require any Baron or Baroness, of 18. years of age, or above, to take this Oath: and for any two Justices of the Peace *Quorum unus*, in the County, to require any person above 18. years old, under the degree of a Baron, to take it.

4. And then it is further provided, That if any person of 18 years old, or upwards, under the Degree of a Baron, or Baroness, shall be Presented,

Presented, Indicted, or convicted before any Judge that hath power to take such Indictment, or Presentment, for not coming to Church, or not receiving the Sacrament, according to the Lawes and Statutes. The Lord Chancellor, Lord Treasurer, Lord Privie Seal, or Principal Secretary, and any two more of the Privie Council, may require such a one to take the Oath. And if any person under that Degree, and of 18 years old, or upwards, that shall stand so Presented, Indicted, or Convicted as aforesaid: there any one Justice of Peace of the County near adjoining to the place, where the person dwelleth, and the Justice shall find cause of suspicion: He may upon notice thereof, require such person to take the Oath.

5. If the Minister, Petty Constable, or Church-wardens, or any two of them, shall complain to any Justice of Peace, where the party dwells, and within whose Commission he is, and the Justice shall find cause of suspicion of Recusancy, There this Justice upon notice hereof, may tender this Oath to such person, and require him to take it; and if he refuse, commit him to prison without Bail, till the next Assizes, or Quarter-Sessions, where it may be tendered to him again. And if he shall then also refuse to take it, he will be in a *Præmunire*. And so of the Wife of a Popish Recusant, till she conform. *Præmunire.*

SECT.

5. It is further provided by the said Act, that the Bishop within his Diocese, and the two Justices of the Peace, *Quorum unus*, within their limits, before whom the Oath was to be taken, might have required the persons to whom they might give it to take it. And if thereupon, such person refuse to take it, the Bishop or two Justices, may commit the party to Goal, till the next Assizes, or General Quarter-Sessions, and then it may be tendered to him again; and if then he again refuse it, he shall be in a *Premunire*. So that upon this Statute, such persons authorized to give the Oath, may not tender it to any person, but to such persons as are for the Reasons laid down, suspect of Popish Recusancy.

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SECT.

SECT. IV.

Observation.

Out of all this it may be observed. 1. That some doubt may be made upon 3 *fac.* The Title, Preamble, and Body whereof, is about Popish Recusants onely, whether therefore the Oath may be rendered to any other sort of Recusants but Popish Recusants.

2. That if others may be hereby pressed to take the Oath, yet is some doubt made, whether this upon 3 *fac.* (the Title, Preamble, and Body of which, is about Recusants onely) may be rendered to any but Recusants.. That if it be taken, it must be taken in the very words set down in the Statute.

3. That it is thought by some, that no man is to be compelled to take this Oath by the first of these Statutes, but such as are named, and described in the Statute, as, one that is first indicted of Recusancy, &c.

4. It is conceived also upon this Statute, That no man may tender, or administer this Oath to such person appointed to take it, but the persons and in the Case mentioned in the Statute; and therefore that a Tender otherwise, is not at all Penall to him.

5. That where it is rendered, to make a man a refuser, it must be formally rendered, with the Bible and Oath, and (as some think) read before him; and that if without this, he shall only ask him, whether he will take it, that this is not sufficient.

6. It

6. It seems reasonable, that the party to take, should, if he desire it, have a little time to con-
sider of it, at least, he must give him time to read
it, or to hear it read to him.

7. That the last Statute of 7 Jac. is doubtful,
and where it binds all persons whatsoever to take
it, it seems to intend only, *hac vice*, and not for
ever afterwards. And that after that time, none
are by that Statute to be forced to take the
O th, and that such, and none others, but such
as are indicted, or presented for not coming to
Church, or for not receiving of the Sacrament,
according to the Lawes and Statutes of the
Realm; and such as upon the Complaint of the
Minister, Constable, and Church-wardens, are
rendred suspicious to a Justice of Peace, that
such onely are to be required to take it. It is
made a Query also by some, whether he that hath
taken it once, may be forced to take it again,
and punished for his refusal thereof. And the
words of the Law being thus, speaking of the
Tender of it, *viz.* being duly tendered accord-
ing to the true intent and meaning of the Sta-
tute, whether it be a good Tender where the Act
is not read. But it is said to be resolved by the
Judges, 9 Jac. in *Serjeants-Inne Fleetstreet, vi.*

1. That the Statute of 7 Jac. that doth give
to two Justices power, to require the persons
therein named to take the Oath, doth by this,
give them power to make a special Warrant to
Constables, and to bring the Bodies of the par-
ties who are to take the Oaths before them to
do it. For when the Statute gave power to Ju-
stices of Peace, to require any person, or per-
sons, to take the Oath, it doth implicitly give
them

The Power of
the Justice of
Peace.

Co. 12. 131, 132.

them power to make such a Warrant, *Quando lex aliquid alicui concedit, conceditur & id sine quo res ipsa esse non potest.*

Constable.

Break house.

2. It doth not become the Justices, to go to seek the parties. *Cook* 12. 130, 131. But that the Constable may not upon this Warrant, break the house, to apprehend the party, till he hath refused to take the Oath before them, who have authority to tender it to him, or commit some contempt to the King, for he is not yet an offender, nor indicted, nor charged by any matter of Record.

3. It was resolved, That a Baron, and Barreness, as to the Tender of the Oath, need not to be indicted, &c.

4. That the words [of, or above the said age or degree] in the Statute, are to be indicted, of the said age, and above the said degree.

5. That these words [*If any person being of the age of 18 years, or above, shall refuse to take the Oath duly tendered, &c.*] That this shall extend to all that went before.

6. If Justices of Peace upon refusal before them, commit any person to Goal, without Bail or Mainprise, and mention in their Warrant, the Tender and refusal, then the Justices of Assize, or Justices of Peace, ought to tender the Oath again, and to have a special Indictment: For the words of 3 *Jac.* are, And if the said person, or persons, or any other whatsoever, &c. So that this word (*Other*) excludes the persons who were committed for refusal. But it seems, if the *Mittimus* of the Justice of Peace, &c. do not comprehend any Tender or Refusal of the Oath, then they may be generally indicted, as
upon

Mittimus.

Indictment.

upon refusal in open Court, for the Court cannot take notice of Tender, and refusal in such case. And it was resolved, That the major number of Justices, who commit the parties, have Election, either to commit to the next Assizes, or to the next Sessions: For the words of the Statute being in the Disjunctive, some may be more fit to be committed, till the next Assizes, some till the next Sessions. And two Justices *quorum unus*, by 7 Jac. may commit any one above 18 years old, and under the degree of the Nobility, albeith he be not indicted or convicted, &c. But a Justice of Peace cannot commit any, unless they be prosecuted, indicted, or convicted, according to the Statute of 7 Jac. Indictment. And it was resolved by all, That if the Indictment be commenced upon 3 Jac. upon refusal in open Court, the Indictment may be short and general, of what the parties are indicted, &c. And not so, if the Indictment be upon the Commitment made by two Justices of Peace: this is good of any person whatsoever. But if, in such Case, the *Mittimus* be special, comprehending the Tender and refusal of the Oath, there ought to be a special Indictment and refusal in open Court. Also, if the Justices of Peace make a special *Mittimus*, then the Indictment ought to be special, *viz.* to recite, that the party was indicted, or presented, &c. in certain, &c. according to 7 Jac. And that he refused before one Justice of Peace, or otherwise in open Court. But if the *Mittimus* be generall, then as before, the Indictment before the Justices of Assize, at the Assize, or Justices of the Peace at the Sessions, may be generall upon 3 Jac. Cook 12. 133.

6. If a person be fugitive in another County, and so evade the Statute for the present, he may be indicted for Recusancy, and the Indictment sent into the Kings Bench, there to be proceeded upon.

7. If they be in their houses, and the door shut, &c. then they may be indicted before Justices of Assize, or of the Peace, and the process shall be as in Trespass. And after a *Requie facias*, &c. by force of a *Capias* to the Sheriff, he may, after a Request made to open the door, break open their Houses, &c. And if the Sheriff bring the party in Court, upon his refusall to take the Oath there, he may be generally indicted as before.

8. If one be indicted for Recusancy, the Court may proceed by process, upon 23 *Eliz.* or by Proclamation, upon 28 *Eliz.* 2.

Observation.

Caution to Justices.

9. That no man may be attainted in a *Premunire*, but after two Indictments, two Tryals, & two Verdicts. Let it be then observed upon the whole matter, If it be not a dangerous thing for one or two Justices, to require this Oath of them that are not bound to take it, upon the first Act. Or for one Justice upon the last Act, to require it of a person not suspected, or complained of by the Minister, Constable, or Church-wardens. Or for any Justice of Peace, (except it be all the Justices in their publick Sessions) to require it of a person before them. Or to require any person to take it, that lives in another County, save onely in the Cases before set forth. Or for Justices to tender it out of their own County, to any person whatsoever. And upon

upon such Tenders, to send the Refusers to Goal.
And therefore it will concern the Justices of
Peace, to be carefull what they do herein.

CHAP. IX.

About Conventicles, upon 35 Eliz: cap. 1.

AS to this, these things are to be known
from the Lawes of the Nation. That the
Title of this Statute, is, Punishment of persons,
obstinately refusing to come to Church, and per-
swading others to impugne the Queens Authority
in Ecclesiasticall Lawes, &c.

Sett. 1.

1. That the Preamble of this Statute, is, To
avoid the Inconveniences, by the dangerous
Practises of seditious Sectaries, and disloyal
persons.

2. That a Conventicle (in the sense of this
Statute) seems to be, Where any meeting of
People is under Colour or pretence of any ex-
ercise of Religion, contrary to the Lawes and
Statutes.

3. It is by this Act Provided. That if any
and (as *Wingate* doth abridge it) If any Popish
Recusants above sixteen years old, which shall
without a lawful cause, obstinately refuse to re-
pair to some Church or Chappel for a moneth, to
hear Divine Service; by Printing, Writing, or
expresse Speeches, advisedly, or purposely
practise, or go about to move, or perwade any
person to oppose the Queens Authority, in Cau-
ses Ecclesiasticall; or, to that end, shall advisedly

In the Sessions.

and maliciously move, or perswade any person whatsoever, to forbear coming to Church, to hear Divine Service, or to receive the Communion, according to the Lawes of the Nation, or to come to, or to be present at any unlawful Assemblies, Conventicles, or Meetings, under Colour or pretence of any Exercise of Religion, contrary to the Lawes and Statutes: or if any person, which shall obstinately refuse to repair to some Church or Chappel, or usual place of Common-Prayer, and shall forbear by the space of a moneth, to hear Divine-Service, as is aforesaid, shall either of himself, or by the perswasion of another, willingly joyn in, or be present at any such Assemblies, Conventicles, or Meetings, under colour or pretence of any such Exercise of Religion, contrary to the Lawes and Statutes of this Realm, as is aforesaid. He that shall offend either of these wayes, being thereof lawfully convicted, is to be committed to Prison, and there to remain without Bail, till he conform, and come to some Church, Chappel, or usual place of Common-Prayer, to hear Divine Service, according to the Lawes and Statutes aforesaid. And till he make an open submission in the words set down in the Statute, viz. *J. A. B. do humbly acknowledge and confess, that I have grievously offended God, in contemning his Majesties godly and lawful Government, and Authority, by absenting my self from Church, and from hearing Divine Service, contrary to the godly Laws and Statutes of this Realm, and in using and frequenting of unlawfull and disorderly Conventicles and Assemblies, under pretence and colour of exercise of Religion. And I am heartily sorry for the same.*

same. And do acknowledge, and testifie in my Conscience, That no other person hath, or ought to have any Power or Authority over his Majesty. And I do promise and protest without any dissimulation, or any colour or meanes of any Dispensation, that from henceforth, I will, from time to time, obey and perform his Majesties Laws and Statutes, in repairing to the Church, and hearing Divine Service, and do my uttermost endeavour to maintain and defend the same.

And if he, being so Convicted of this offence, shall refuse to conform, and come to Church, and to make this submission within 3 moneths after his Conviction, being thereunto required by the Bishop of the Diocess, Minister of the place, or any one Justice of the Peace of the County where he shall be; That then such person, upon the Command of any one Justice of the Peace of the County where he shall be, shall upon his Oath in the open Sessions, or at the Assizes and Goal-delivery of the same County, before the Justices there present, abjure the Realm and Dominions of the King for ever, unless by Him he have Licence to return. And thereupon shall depart the Realm at such Haven or Port, and within that time, as by the said Justices shall be limited, before whom the Abjuration shall be made, unless he be letted by some reasonable cause allowable in the Case of Abjuration for Felony; and then within convenient time after, as in the case of Abjuration for Felony. The which Abjuration, the same Judges are to certifie to the Justices of Assize and Goal-delivery at the next Assizes or Goal-delivery,

Sec. 2.

to be held for the Countrey. And if he refuse thus to abjure, or after he hath so done, shall not depart accordingly; or departing, shall return without the King's License, that then he shall suffer as a Felon. But if after the offence, and before he be required to make his Abjuration, he shall repair to some Parish-Church, on some Sunday, or Festival-day, and then and there hear Divine Service; and at Service-time, before the Sermon, or reading of the Gospel, make his publick and open Submission and Declaration of his Conformity to the Laws, as before is set down; That then he be clearly discharged of all the Penalties, to be inflicted or imposed by the Act for the offences aforesaid. The which submission, is to be entred by the Minister of the place. And if the offender do after this relapse, or estoons obstinately refuse to go to some Church, Chappel, or usual place of Common-Prayer, to hear Divine Service as aforesaid, or shall come, or be present at any such Assemblies, Conventicles, or meetings, under colour, or pretence of any exercise of Religion, contrary to the Laws and Statutes, that then he shall lose all the benefit of his submission.

Sect. 3.

But it is by the same Act further Provided, That he that shall so abjure, or shall refuse to abjure, being required; shall forfeit all his goods and Chattels for ever and lose all his Lands and Tenements for his life, and no longer. But no losse of Dower, nor corruption of Blood to be in the Case. But here it is to be observed,

1. That some doubts are made hereupon, And it is questioned, Whether Meetings now used, that have been general, and of long continuance amongst us by Professing Christians, to preach,

preach, pray, and speak one to another, for the Edification one of another, in the Holy Faith, according to the Command of God, and the Example of his Servants in all times (as they affirm) out of 1 *Thes* 5. 11. *Heb* 10. 25. *Mal* 3. 16. 17. are against this Branch of the Statute, that forbids the willing joyning in, or being present at, or frequenting unlawful Conventicles, under pretence of exercise of Religion, contrary to the Laws and Statutes of this Realm. For a Conventicle by the Common-Law, seems to be the same with, or somewhat like to a Ryot, or unlawful Assembly. See in *Lamb* Justice of Peace, the Commission of the Peace, *de illis, qui in Conventiculis contra pacem nostram & in perturbationem populi nostri, seu vi armata jerint vel equitaverint, &c.* And a Conventicle by the Statute is, A meeting, under colour of exercise of Religion, to oppose the Kings Authority, in Causes Ecclesiastical, or against the Laws and Statutes of the Realm. For they that frequent these meetings, pretend,

1. That the persons that meet, are no such persons, as are mentioned in the Preamble of the Statute [Seditious Sectaries, or disloyal persons.]

2. That if they be such as go not to Church for a moneth together, they have good cause for the not doing thereof, they cannot do it without sin, because they doubt of the lawfulness of some things therein; and therefore this cannot be called an obstinate Refusal.

3. That their meetings cannot be said to be (as the meetings of Papists intended by the Statute, was) to any such end, or for any such purpose, as is mentioned in the Statute, to oppose the Kings Authority, &c. for their meetings were erect, and continued for many years, when the King was not here, and the persons meeting teach and practise obedience, and pray for the King and State. And their meetings being for such ends as before, to pray, &c. Who will say, that this is against the Laws and Statutes of the Nation, or an unlawful meeting, as by the words of the Act, the same must be, or else it is not to be punished by this Law.

4. That he that is charged upon this Branch, must be charged for perswading others to go to Conventicles, and not for going to them himself: And not for this perswasion of others only of it self, unless it be joyned with that which went before, by one that impugneth the Kings Authority, &c. And if any Indictment be against any man upon this Branch, it must be drawn just as the Act is, charging the offender upon the two first Branches in the Copulative, or with the first Charge, and one of the two last Charges in the disjunctive.

5. The next Branch of the Act of the 35. of Eliz. is to this purpose.

That if any one obstinately refuse to go to any Church, and shall, for a moneth, forbear to hear Divine Service, if such a one shall willingly joyn in, and be present at any such unlawfull Assembly. The Penalty of the Statute (which is that before named) is to be laid upon him.

The penalty for refusing to go to Church a moneth, and of going to Conventicles.

And upon this Branch, the same Questions are moved, as are moved upon the former Branch, and the like answers given to them. And further, whether the Justices of Peace have any thing to do, and what they have to do upon this Statute of 35 *Ehz.* they not being named in the Statute.

What the Justices may do, upon this Statute.

But this seems to be agreed, That no man is to be imprisoned, or put to an open Confession for any one of these offences, till he be first lawfully convicted in the Sessions by Indictment of the party, Traverse, &c. or otherwise, according to the direction of the Laws in the Case.

Sect. 4.

In the Sessions.

And that the Law is very doubtful in the Case, we may find by the Resolution of the Judges called together of purpose, to consider of this Statute 20 *Jac.* and this by special Command of the King, where the greatest part of them gave this opinion, That the Statute had not been put in ure. See it in *Hutton. Rep. 61.*

It will be the wisdom of Justices of Peace, to be very cautious what they do upon this Statute, whereupon so many knotty doubts may be raised. For if any Justice should commit any man to prison upon it, out of Sessions, and in case where the Law doth not warrant it: the party imprisoned, may have his *Action* of false Imprisonment against him. And by his *Habeas Corpus*, remove himself into the Kings Bench, and there be discharged.

Caution to Justices.

So also if the Justice shall require Sureties of the Peace, or good Behaviour, and commit a man for refusal to give, or bind a man to appear
at

at Sessions, in case where the Law doth not give any authority or direction to Justices so to do. For the Statutes about Recusancy, and not coming to Church; See more in Chap. 6. & 14.

ind. p. 173.

CHAP. XXX.

About Quakers, upon 14 Car. 2.

About Quakers.

AS to this, these things are to be known.
1. That Quakers, by the intencion of that *Act*, seems to intend such as hold dangerous opinions; and (amongst others) that the taking of an Oath in any case whatsoever, although before a lawful Magistrate, is altogether unlawful, and contrary to the Word of God; and do refuse an Oath lawfully rendered.

2. That if any person, who maintain, that the taking of an Oath in any case whatsoever (although before a lawful Magistrate) is unlawful, and against the Word of God, shall wilfully refuse to take an Oath, where by the Law he is bound to take it, being duly rendered to him, or shall endeavour or perswade any other person, to whom any such Oath shall be so rendered, to refuse and forbear the taking of the same Oath; or shall by Printing, Writing, or otherwise, go about to maintain and defend, that the taking of an Oath in any case whatsoever, is altogether unlawfull, And if the said persons commonly called Quakers, shall go from the places of their dwelling, and assemble to the number of 5.

In the Sessions.

or

or more, of 16 years old and upwards, at one time, and in one place, under pretence of joyn- ing in a Religious Worship, not authorized by the Law of the Realm, he forfeits being convict by Verdict of 12 men, or by his own confession, or the notorious evidence of the fact, for the first offence, any sum not above 5 l. to be levied by distress and sale of goods of the party, by warrant of the parties before whom the conviction shall be. And for want of distress, or not payment in a week, to be committed to the common Goal, or house of Correction, for three moneths without Bail, to be kept at hard labour.

And for the second offence, any sum not above 10 l. to be levied by distress as before; and for want of distress, or not payment in that time, to be committed 6. moneths to those places as before; this money to go towards a stock in the house of Correction, as the Justices shall appoint. And for the third offence, after a second correction, to abjure the Realm, or else the King may cause them to be transported to any of his Plantations beyond Sea.

3. That Justices of *Oyer and Terminer*, of Assize, Goal-delivery, and of the Peace, may in their open and general Sessions, hear and determine these offences, and make out process thereupon, as in case of Trespas.

4. That any Justice of Peace, Maior, or chief Officer of a Corporation within the same, may commit to Goal, or bind over with Sureties to the Quarter-Sessions, any that offend in the Premises, in order to their Conviction.

Out of Sessions. 1

5. That

5. That if any one convicted, shall after take the Oath he refused, and give Security not to meet again, he is to be discharged.

6. And now for the right understanding of this Law, it is to be enquired, who is the offender against it.

(1) And for this, it seems to be meant of Quakers onely, and that it cannot be intended, nor extend against any others.

(2) That he that shall maintain, the taking of a lawful Oath before a Magistrate, is unlawful; or shall wilfully refuse to take such an Oath, being legally required, or endeavour to perswade another not to take such an Oath, or shall by Writing or Printing, go about to maintain and defend, that the taking of an Oath in any case, whatsoever, is altogether unlawful. And the same person shall also assemble with others (as in the Act is set forth) that he is the onely offender against this Law. And that, to hold that opinion alone, and not to meet, or to meet; and not to hold that opinion, that to do any of these above mentioned things without the other, will not make him guilty; for the Statute is in the Copulative, and not in the disjunctive.

(3) It is to be enquired, whether the Justices of Peace can by the words of this Law, otherwise then by way of Indictment, convict any man of this offence: And if ye, how?

(4) What shall be said a joyning in a Religious Worship against the Laws of the Realm?

(5) Whether any Justice of Peace, but a Justice within a Corporation onely, may commit to the common Goal, or bind over to the Quarter-Sessions, in order to conviction?

(6) If

(6) If yea: In what case the Justices within, or without Corporations, may bind a man; or how he shall know him, or where a man shall be said an offender against the Law, and so liable to imprisonment, before he is examined and tried?

The sum of all is this, That it is doubtful, whether a Justice within a County, hath any thing to do out of the Sessions, upon this Law? The safe way therefore seems to be for Justices of Peace in these Cases, to proceed by way of Indictment in the ordinary course of tryal, for there it will be out of question.

Caution to
Justices.

About Conventicles.

And as to the *Canons* of 1603. this is further to be known.

That a Conventicle within the sense of the *Canons*, seems to be any meeting of Ministers, or others in any place, to consult about any matter or course to be taken by them or others, by their motion, tending to the Impeachment or deprivation of the Doctrine of this Church, or of the Book of *Common-Prayer*, or of any part of the Discipline or Government in the Church of England. And for this, they are by the *Canon*, to be excommunicate, *ipso facto*. *Can.* 73.

CHAP. XI.

About Holidayes, the Lords day, Fast-dayes, Feast-dayes, and Fish-dayes, upon 1 Car. 1. 3 Car. 1. 2. & 3 Ed. 6. 19.

Sect. 1.

Out of Sessions.

1. **N**O concourse of people may be out of their own Parish for any pastimes whatsoever. Nor may there be any Bear-baitings, Bull-baitings, Enterludes, Common-playes, or unlawful pastimes on the Lords day. And the offender herein, by the view of one Justice of Peace (in the County) or the chief Officer (in a Corporation) either by his own Confession, or the oath of one witness before one Justice, or such an Officer, he shall forfeit to the use of the poor 3 s. 4 d. to be levied by distress and sale of goods, by warrant from the same Justice or Officer, to the Constables or Churchwardens of the Parish, and in case of lack of distress, the offender is to sit in the stocks three hours. But this must be prosecuted within a moneth of the offence committed. And if the Officer be questioned, he may plead the general Issue, and give special matter in evidence, upon 1 Car. 1. And upon this Statute it seems the Justices have nothing to do in their Sessions.

3. Car. 1.

Out of Sessions.

2. No Carriers with Horses, Wains or Carts, or Drovers of Cattle, may travail on this day, on pain of 20 s.

And any one Justice upon his own view, the confession of the party, or proof by the Oath of two Witnesses, may send his Warrant to the Con-

Constables, or Church-wardens of the place where, and to levie the 20 s. of the goods of the offender, by way of distress, and sale of goods, rendering, &c. But the offender must be questioned within six moneths of the offence done; and the Justice may, if he will, give the Informer a third part of the forfeiture. And here the forfeiture may be recovered by the prosecutor in the Sessions of the County or Corporation, whereby, it seems the Justices shall have Conu-

In the Sessions.

3. No Butchers are to kill, or sell their meat on this day. And if they do, any one Justice (upon such a Conviction, as in the last Case) may lend the like Warrant for the levying of 6 s. 8 d. as in the last Case for the 20 s. But no man is to be punished for this offence, after six weeks past. And here the Justice may also, if he please, give the Informer a third part. And upon this branch, it seems the Justices have nothing to do in their Sessions, upon 3 Car. 1. Here also the Officer may plead the general Issue, &c.

Out of Sessions.

4. That if an Officer do upon this day, arrest another upon any ordinary Process, or upon a Warrant for the good Behaviour in the Church, or Church-yard, immediately after Divine Service, especially when it may be done at another time is an offence, for which a man may be indicted and fined. Cro. 1. 438. before the Justices in their Sessions.

The Justice of Peace's Office.

In the Sessions.

5. Shoo-makers may not put their Boots or Shooes to sale on the Sabbath-day, under pain of 3 s. 4 d. and to lose the value of what they so put to sale. 1 Jac. 22. And this the Justices of Peace may hear and determine within, but not out of their

In the Sessions.

their Sessions, the Acts or Ordinances of the 6th of *April* 1644. and 19 *April* 1650. and 17 *Septemb.* 1656. about the Lords day, are now no Laws to us. Nor are we bound to the dayes of Humiliation or Thanksgiving, enjoyned by the 19. of *April* 1650. *August* 24. 1642. 2d of *Decemb.* 1646. 3d of *June* 1647. They are now of no use to us.

For *Fast-dayes*: By the new Statute of 12 *Car.* 2. It is enacted, that every 30. of *Jan.* unless it fall on the Lords day, and then the next day following, shall be for ever hereafter set apart to be kept, and observed as a day of Fasting and Humiliation, to implore the mercy of God, that neither the guilt of the sacred & innocent blood (of the late King) nor those other sins by which God was provoked to deliver both the King and Nation into the hands of cruel and unreasonable men, may at any time hereafter, be visited upon it, or its Posterity. But Justices have no power about this offence. See at the beginning of the Common-Prayer-Book, for the Fast on the *Ember-dayes*, *Lent*, *Rogation-dayes*, and *Frydayes*; but in *Christmas* for the Lords day.

For *Holydayes*. That by 5 & 6 *Ed.* 6. cap. 3. It is provided, that every *Sunday*, and divers other dayes therein specially named, and no other day shall be kept Holy every year. And it is thereby provided, that this offence be punished by Ecclesiastical Censures, at the discretion of the Ordinary, and no other penalty appointed to be inflicted. But Husband-men, Labourers, Fishermen, and all other of what estate or condition soever they be, in the Harvest-time, or at any other time of the year, when necessity shall require,

requite, may labour, fish, or work any other kind of work at their will and pleasure. But this Act being repealed by 1 *Mar. cap. 2.* and after revived, by 1 *Jac. cap. 25.* to continue until the end of the first Sessions of the next Parliament; and not having been, by any Parliament since, continued or revived, some Questions are made of the continuance of it. See *Dwight's Abridgement*, the 5 and 6 *Ed. 6. 3. 15.* by the 1 *M. Parl. 1.* repealed; and afterwards, by 1 *Jac. 25.* again repealed: and therefore quære, whether it be now in force, unless it had been revived by special words: But it seems to be well revived, by *Cook 2. Part Instit. 680.* It will therefore be the wisdom of the Justices of the Peace, to be well-advised what they do upon it. But the Ordinances of the 3. of *June, 1647.* is now of no force to us.

5. Thanks is to be given to God on every Fifth-day of *November* publicquely for our deliverance from the Gunpowder Treason, 3 *Jac. cap. 1.*

For Fish-days.

6. That none may eat Flesh, upon days usually observed for Fish-days, on pain of 3 *l.* or three Moneths Imprisonment without Bail; and he that willingly suffers it in his house, and not discovers it to Officers, forfeits 40 *s.* by 5 *Eliz. 25.* So that it seems, both these Penalties, 2 and 3 *Ed. 6. 19.* and 5 *Eliz. 2. 5.* are to be inflicted for the offence. That by 2 and 3 *Ed. 6. cap. 1.* no flesh is to be eaten by any person whatsoever, that have not Licence to eat meat from the King.

But such as are aged, or sick persons, or Women with Child ; or such as are in Prison, for some other cause, then for eating of Meat on Fish-days ; and that during the time they shall so continue ; or a Lieutenant, Deputy, or Captain of the King's Army ; or by Licence of one of them, any of the Souldiers of the Army, in case of lack of other provision.

Sect. 3.

Lent.

The punishment
of the offence.
Out of Sessions.

Within what
time it must be
done.

Before what Ju-
stice it must be
done ; and the
office of the Ju-
stice herein,

Upon Fridays and Saturdays, Embring-days, and other days, commonly called *Vigils*, and in the *Lent*, and other accustomed days for Fish-days, under pain to forfeit, for the first offence, ten shillings, and Imprisonment ten days, and to eat no flesh in that time. And after one Conviction, for the second time, twenty shillings, and twenty days Imprisonment, and to eat no flesh in that time ; and the like for every offence afterward. But he that is questioned upon this Statute, must be questioned within, and not after three Moneths of the offence done. And this may be before Justices of the Peace, or of the Gaol-delivery onely, who have power to hear and determine the offences thereupon. And it must be, where-ever it is done, in the ordinary courie of Indictment and Traverie, or Confession thereupon, and can be by no other way ; onely this, any Justice may (if he will) in the *Lent*-time, search any Victualling-house for flesh ; and if he find any dressed or killed, till three days before *Easter*, he may (upon his own sight) give it to the Poor, or to the Prisoners, upon 3 Car. 4. 5 Eliz. Chap.

5.

2. That by the 5 and 6 *Ed. 6. cap. 3.* The Eves of some of the Holidays, mentioned in the said Statutes, are to be kept as Fasting-days also; but no punishment is appointed by this Statute to be inflicted upon the Offender, but onely by the Censures of the Church, or Spiritual Judge. This therefore, if it may be any other way, it must be also by the ordinary course of Indictment, Traverse, and Fine, as in the last.

Fasting-days.

In the Sessions.

3. But quære here, what Fast is hereby intended, Whether a Religious Fast, to serve God in it, or onely a Civil Fast, an abstinence from meat: and herein also it must be observed, as before.

4. That this last Statute was repealed by 1 *Marycap. 2.* and by 1 *Jac. cap. 25.* was revived again, to continue and be in force onely, until the end of the first Session of the next Parliament: And not having been by any Parliament, since that time, continued, or revived, otherwise then by the general words of 17 *Car. 1.* it is doubted, Whether it be not discontinued, and at an end. Also, the Statute of 5 *Eliz. cap. 5.* entitled, *Constitutions for the maintenance of the Navy*; being made to continue onely for ten years, and from thence, to the end of the next Parliament, then following the end of the said ten years; and then being revived, to continue in force, till the end of the first Session of the next Parliament. And not having been by any Parliament, since that time, continued, nor revived, otherwise then by the general words of 17 *Car. 1.* it is doubted, if it be not discontinued, and at an end. And then the Act

Observations.]

of 35 *Eliz. cap. 7.* as to the reviving and continuance of it, the new Additions and Alterations about this thing, having dependance upon it, will be at an end also. But they seem to be continued by the general words of 17 *Car.*
 1. And therefore, it will be the wisdom of Justices of Peace howsoever, to be well advised what they do upon it.

Caution to Justices.

SECT. IV.

About Holidays, and Fasting-days.

ANd out of the *Canons* of 1603. about these matters, this onely is to be known.

No Minister may, without the Bishops leave, appoint a Fast, or special Meeting, under any pretence.

Sect. 2.

1. That as to the Lords-Day; That by *Can.* 13. all men are required to keep holy the Lord's Day, and other Holy Dayes, according to the Orders of the Church.

2. And about Fasts and special Meetings, for Religious uses, this onely is to be known; That no Minister may, without Licence, under the Hand and Seal of the Bishop of the place, appoint or keep any Solemn Fast, either publique, or in any private house, other then such, as by Law are, or shall be by publike Authority appointed, nor shall be wittingly present at any of them, under pain of Suspension, for the first fault; of Excommunication for the second; and Deposition from the Ministry for the third: Nor without such Licence, hold any Meeting for Sermons, Prophecies, or Exercises, in Market-

Market-Towns, or other places, under the like pain. Nor, without such Licence, attempt, upon any pretence whatsoever, either of Possession, or Obsession, by Fasting and Prayers, to cast out any Devil, or Devils, under pain of Impuration of Imposture, or Couzenage, and Deposition from the Ministry, *Can. 52.*

To cast out Devils.

CHAP. XII.

About Churches, Church-wardens, Chappels, and Church-yards, upon 5 & 6 Ed. 6. cap. 4. and 1 Mar. cap. 3.

AS to this, these things are to be known from the Laws of the Nation.

1. That Churches, as convenient places for the Meeting of the Congregations and People of God, about the Worship of God, are to be preserved, repaired, and kept clean for that use.

Sett. 1.

2. That the Minister and People are in these Churches, and about this Work, to be kept in peace, and not disturbed. And therefore, in 5 and 6 Ed. 6. chap. 4. and 1 Mar. chap. 3. all disturbance of Ministers, in their Publike Service of God therein, is to be punished with three Moneths Imprisonment without Bail. But herein it is to be observed by the way, That by the Statute of 1 Mar. cap. 3. he is to be so punished also, that shall disturb a Minister saying Mass, or pull down; or break an Altar, or

Crucifix, or Cross. And upon this, the Justices of Peace (as we have shewed) have both within, and without their Sessions, some power. For which, see *Chap. 3. Sect. 2.*

3. If any do maliciously strike another with a Weapon, or draw his Weapon of purpose to strike another, in any Church, or Church-yard, he is to have one of his Ears cut off, and is, *ipso facto*, excommunicate, by 5 and 6 *Ed. 6. cap. 4.* But the Offender is to be indicted and convicted by Traverse or Confession, before the punishment can be inflicted. See *Leonard's Rep. Case 337. Croo. 1. 335.*

4. To arrest a Minister going to, or coming from Church, or in, or at the Church, going to, or returning from the Publique Service, is an offence; for which, the Bayliffs may be indicted, or bound to the Good Behaviour. And the offence is not much less, to arrest another man in the Church, and whilest he is at the Publique Service; especially, being such a one as may be easily arrested in another place, at another time. *Croo. 2. 321.* And where it is onely in a common Case, and at the Suit of a common person; for in case of the King, and upon a Justices Warrant, in case of Felony, and the like, there it may better be done: and if it be on a Week-day, the offence is not so great, as when it is on the Lords-Day.

5. If any do (by words) quarrel or brawl in a Church, or Church-yard, he may be suspended by the Ordinary; the Lay-man, *ab ingressu Ecclesie*; the Clergy-man from his Office, by 5 and 6 *Ed. 6. cap. 4.*

6. That if any do smite, or lay violent hands upon another, in any Church, or Church-yard, he is excommunicate, *ipso facto*, by 5 & 6 Ed. 6. cap. 3.

7. That where any one is assaulted or beaten in a Church, it is not lawfull to return, or give back any blows, in his own defence, as he may do in another place, *Croo. 2. 367.*

8. That the Church-Wardens Office is, to look to, and govern the Church and Church-yard, keep it repaired and clean; to provide Fonts, Pulpits, Tables, and the like, and preserve the Goods thereof, Books, Communion-Cups, the Ornaments, and other Furniture thereof, and to all the things therein; and, for that purpose, to rate the Parish for money to do it. For which, see 37 H. 6. 30. 11 H. 4. 12. 11 H. 7. 27. F. N. B. 91, 54. 12 H. 7. 10. So the Church-Wardens are to do many other things in the execution of the Warrants of the Justices; which look for in other Titles.

9. That the Justices of Peace have now nothing to do with the repair of Churches, or making of Rates to that end; nor with the repair of Chancels, Isles, or Church-yards, or to help a Sexton to his dues, upon 9 Feb. 1647. 29 Aug. 1644. for these are not binding to us.

The Office of the Justice of Peace in this.

10. That Justices may punish in their Sessions, such as keep Markets or Fairs in Churches or Church-yards, upon the Statute of *Winchester*, 1 Ed. 3. And so him that draws his Weapon, or shall strike another in a Church, by 5 & 6 Ed. 6. 4.

And out of the *Canons* of 1403. as to Churches, and Church-yards, this is further to be known.

Set. 2.

1. That Churches are not to be prophaned, by Plays, Feasts, Banquets, Suppers, Church-Ales, Drinkings, Temporal-Courts, Lay-Juries, Musters, or the like within them; or in the Church-yard; nor the Bells to be rung Superstitiously upon Holidays, or Eves, abrogated by the Book of Common-Prayer, *Can. 88.*

2. The Church-Wardens are to provide Books, Font, Communion-Table, Pulpit, Chest for Alms, to repair the Church, &c. *Can. 80, 81, 82, 83, 84.*

CHAP. XIII.

Of Laws, and the Canon-Laws in general.

AS to the *Canons*, and *Canon-Laws*, some of which we have named to you before; take these things further.

Set. 1.

1. That by the Statute of 25 *H. 3. chap. 19.* It was provided, That all the *Canons* then in being, should be surveyed by thirty two persons; and that such of them, as they should find against the King's Prerogative, and the Laws of the Nation, should be abrogate. And such as they should find to be according to the Laws of God, and the Realm, should stand in their strength, the Kings Assent, under his Seal, being

ing first had to them. And that no Ordinance, or Constitution, Provincial, or Synodall, nor any other *Canons*, should be, after that time, made, put in ure, or executed, without the King's Royal Assent and Licences, to make, and execute the same, under a great pain. And this some understand to be the King's Assent in Parliament, and affirm this to be the Common-Law. And that no *Canon* may be made in the *Convocation* to bind the Laity, but what is confirmed by Parliament, by assent of Lords and Commons, and by the King's Letters Patents also. *Bayshaw* of the *Canons*, *Kelp*. 182. And therefore it is said, that the *Canons* surveyed by thirty two Commissioners, in the time of *H. 8.* upon the Statutes of 27 *H. 8.* 15. 35 *H. 8.* 16. and 3 *Ed. 6.* 19. are not allowed at this day, because they are not confirmed in *Parliament*.

Sec. 3.

2. That no *Canon*, *Ordinance*, or *Constitution* of the Clergy, that is contrary to the King's Prerogative, or the Customs, *Laws*, or *Statutes*, of the Realm, may be put in execution, by authority of the *Convocation* of the Clergy. See 25 *H. 8.* chap. 19.

(3.) It is said, That the power of making of Ecclesiastical *Laws*, doth not rest in the Clergy alone, but in the Parliament, who hath made many *Laws* about the Clergy; as 9 *H. 3.* chap. 1. *Merton*, 20 *H. 3.* chap. 9. 25 of *Ed. 3.* Stat. of Consultation. *Carliel*, 35 *Ed. 1.* Stat. de *Circumspecte Agatis*. 13 *Ed. 1.* *Articuli Cleri*, 9 *Ed. 2.* 31 *H. 8.* chap. 14. 13 *Eliz.* the confirmation of the 6 *Articles*, 32 *H. 8.* chap. 26. and others. And this, in effect, is said by 13 *Car.*

2. That no Ecclesiastical Law, or Canon, not before allowed, confirmed, or enacted by Parliament, &c. should be confirmed by that Law.

(4.) That no *Canons* now can be duly and legally made, but by a *Convocation* of the Clergy, duly assembled, by the King's Writ first obtained, or a new Synod derived out of an old *Convocation*. Nor may they, being so made by such a *Convocation*, be put in ure, or execution, after they be made, without the King's Royal Assent be first had to them, and his Licence to execute them. Stat. 25 H. 8. chap. 19.

(5.) It is to be observed, That the Statute of 17 Car. 1. doth forbid the Ecclesiastical Judge, to inflict any Pain, Penalty, Fine, Amercement, Imprisonment, or other corporal punishment, upon any, for any thing whatsoever, belonging to Ecclesiastical Consuance: The which Statute, is since (in part) repealed by 13 Car. 2. and thereby it is declared, That the ordinary power of the Ecclesiastical Judge is restored, and that he may execute that Ecclesiastical Power, and use the same Censures and Coertions he had, and used before, 17 Car. 1. in Ecclesiastical Matters, according to the Ecclesiastical Law.

Sett. 3.

BUT it is provided by the same New Act of 13 Car. 2. That the Clergy may not exercise any Ecclesiastical Jurisdiction, which they might not (by Law) have used before 1639. Nor may they abridge the King of his Prerogative; nor may they impose the Oath of *Ex Officio*, or any other Oath, whereby the person

son be charged or compelled to accuse or purge himself of any criminal matter, whereby he may be liable to any censure or punishment. And it is thereby further declared, That the same Law shall not enure to confirm the *Canons*, or any of them, made 1640. Nor to confirm any other Ecclesiastical Laws, or *Canons*, not formerly confirmed, allowed, or enacted by Parliament, or by the established Laws of the Land, as they stand in 1639. It is therefore to be enquired, if upon all this, any change be made in their Jurisdiction, to make, or execute any of their *Canons*, and what this change is.

(6.) The *Canons* then of 1640. being by this *Act* of 13 *Car.* 2. disallowed, not made (as it seems) by a Legal Authority of the King; nor duly confirmed, but made out of a *Convocation*; and many of them against Law, are therefore not now to be made good by the King's Assent. And those *Canons* that were made before the 25 *H.* 8. being to be surveyed by the thirty two Commissioners, it is said, were not confirmed by the King's Royal Assent. And therefore it is held, That neither of these *Canons* do bind at this day. Nor can any *Canons* bind now, but such as are made and confirmed, as before is set down. And therefore the Ecclesiastical Court cannot claim any Jurisdiction by those *Canons*, that are otherwise made. For it is held, That as no *Canons* can be made without the King's Writ, in a *Convocation* duly called. So neither can it be a *Canon*, to bind the Clergy and Laity, but

but it must be made by the common consent of the Clergy and Lay both. For the power of making of Ecclesiastical Laws, was never in the Bishops and Clergy, but in the King, with the Assent of the Lords and Commons. And it having been (as it is said) solemnly resolved at a Grand Committee, 7 H. 8. *Kohn. 182.* That no Ecclesiastical Laws shall bind the Lay-People, but what they assent to. So the Thirty Nine Articles, made 1562. in the Convocation, did not bind, till they were confirmed in Parliament, 13 Eliz. 12. And that such of our *Canons*, as were not made by the King's Writ, in a Convocation; or in a New Synod, derived out of an old Convocation, and have the King's Assent after, by his Letters Patents, which, some say, must be in Parliament. And therefore it will be safe, in the execution of them, to proceed with good advice. The *Canons* before named, being now looked upon, as of no force and use to us; and those of 1562. new printed 1630. not spoken against by the said Statute; it seems those *Canons* (if any be) many of which we have before cited, are the *Canons* now in force.

Sect. 4.

But it is without question, that the Ecclesiastical Court hath the same Jurisdiction, as formerly it had, in Causes of Matrimony, and Testament; in Cases of Fornication, Adultery, and other deadly Sins; to impose Penance, or such like corporal punishment, or to impose a pecuniary punishment. For not repairing of a Church, or Church-yard, and for not decking of a Church; and for this, to inflict a

pe-

pecuniary punishment onely. To give power to the Minister, to demand his Oblations and Tythes, due from a Parishioner, and Mortuaries where they have been paid, for breach of an Oath, for Defamation, and the like, upon the Statutes of *Circumspecte Agatis*, made 13 Ed. 1. and *Articuli Cleri*, made 9 Ed. 2. In these things, and upon these Laws, the Spiritual Court hath the same Jurisdiction, as formerly it hath had.

2. That if one Parson sue for Tythes of another Parson, if it be not to the fourth part of the value of his Benefice, this may be determined in this Court.

3. That if a Prelate, or Patron, demand a Pension out of the Parsonage, this may be decided in this Court.

4. That if one lay violent hands upon a Clark, he may for this be punished in this Court.

5. That for some kind of Daffamations, relief may be had here, as for calling of one Heretick, Schismatick, Whore, Bawd, Adulterer, Fornicator, or the like. But the Party slandered, cannot sue for amends in this Court for damages, and yet he may recover costs of Suit in this Court.

6. The way of Coertion and punishment in this Court, is chiefly by Suspension, and Excommunication, and the like, *pro salute animæ*; for this Court may not fine, nor imprison, nor force money. And yet the Offender, in this Court, may redeem his Penance, or corporal punishment, with money; and with his consent, so to do, the Court may order it.

it. And if the Defendant, in this Court, shall agree to give a sum of money, to redeem his Penance, the Party may sue for his money there. And this is a Brief of the Jurisdiction of the Spiritual Court. This Court therefore, cannot force men to take Oaths, or to enter in- to Bonds to observe the *Canons*. Nor may this Court now impose the Oath *Ex Officio*, or any other Oath, whereby the person taking it, may be charged, or compelled to confess, accuse, or purge himself of any criminal matter, whereby he may be made liable to cen- sure or punishment.

7. If this Court shall in any thing exceed its Jurisdiction, the party grieved by it, may have his relief in the Courts at *Westminster*, by Pro- hibition, Injunction, or the like. See for all these things, *F. N. B.* 39. 41. *Regist.* 36. 37. *Articuli Cleri, & Circumspecte Agatis.* *Cook* 4. 20. *Kelw.* 39. 182. 25 *Ed.* 3. *pro Clero.* *Plowd.* 36. *Stat.* 25 *H.* 8. chap. 19. 9 *H.* 3. chap. 1. *Merton.* 20 *H.* 3. chap. 9. 25 *Ed.* 1. *Consultation.* 50 *Ed.* 3. 4. *Carlisi,* 35 *Ed.* 1. *Kelw.* 182. 31 *H.* 8. chap. 14. 32 *H.* 6. 26. 1 *Ed.* 6. chap. 1. 2 *Ed.* 6. chap. 21. 5 *Ed.* 6. chap. 12. See 1 *Eliz.* chap. 1. and 2. 3 *Eliz.* chap. 1. 5 and 6 *Ed.* 6. chap. 1. 13 *Eliz.* chap. 12. 13 *Car.* 2. Yet, let me say this one word, e're we end this Discourse; That the King having in him the sole Ecclesi- astical power in him, and enabled (by the Common-Law) by Himself, to make Or- ders and Constitutions for the Government of the Clergy; as is resolved, *Cook* 5. 9. and *Croo.*

Croo. 2. 37. And the King and Clergy, in the time of the sitting of Parliament, being by Law enabled, to charge the whole Clergy with a Subsidy, by a Law, it should seem reasonable, That the Clergy, with the King's concurrence, in their *Convocation*, in the time of Parliament, may make *Canons*; that (not being against the King's Prerogative, nor against the Laws of the Nation) may bind the Clergy. But to maintain, they may make *Canons* to bind the Clergy and Laity both, is to give the same power to them, which the Parliament it self onely hath. See *Cook Instit.* 2. Part, of Ecclesiastical Courts, 10 H. 7. 17. 2 H. 6. 13. and other Books. And yet this power in the Clergy, to make *Canons* (it seems) is not to be in Articles of Faith; for, if so, there had been no need of confirmation of the Thirty Nine Articles, by the *Act* of the 13 of *Eliz.* 12. agreed before in the *Convocation*.

CHAP. XIV.

CHAP. XIV.

*About the Crown, upon 5 Eliz. chap. 1. King's
Kingdom, and Pope and Popery.*

Bishop of Rome.

First, No Foreign Person may exercise any Jurisdiction here in *England*, 1 *Eliz.* 2.

Self. 1.

2. None may mainrain the Jurisdiction of the Bishop or See of *Rome*; nor may they affirm or maintain the Jurisdiction of any Foreign Prelate or Potentate here in the King's Dominions, in pain to forfeit all his Goods and Chattels; and if he be not worth 20 *li.* he forfeits for the first offence all he hath, and is to be imprisoned a year. For the second offence, he is in a *Præmunire*. And the third is High-Treason, 1 *Eliz.* 1. 5 *Elizabeth*. And the Justices in the Sessions, *Quorum unus*, may hear and determine this offence, all but Treason, upon 5 *Eliz.* 1. And they are to certifie such Presentments of this offence, as are taken before them, into the *Kings-Bench*, within forty days after they receive them, if it be in the Term-time; if not, the first day of the next Term, in pain of one hundred pounds, upon 5 *Eliz.* 1. 23 *Eliz.* 6.

Certificates

3. If any bring in here any *Agnus dei*, Crof-
fes, Pictures, Beads, or fuch like vain, or super-
ftitious things; or deliver, or offer the fame to a-
ny person to be used; he that so doth and he that
doth receive it, shall incur a *Premunire*, unless
the party to whom the tender is made, appre-
hend the party that tenders it, and carry him
before the next Justice, or not able so to do,
doth within three dayes disclose his name, and
the place of his abode; or resort to the Ordin ry,
or Justice of the County, or having received it,
doth within a day after, deliver it to a Justice.
And the Justice so receiving it, within 14 dayes,
to disclose it to one of the Privie Council, on
pain of a *Premunire*, upon 13 *Eliz.* 2.

Agnus dei,
Croffe Pictures,
&c.

Out of Sessions

4. If any obtain, or put in ure, any Bull of
Absolution, or Reconciliation, from the Bishop
of *Rome*, or absolve, or be absolved thereby, they
and their Accessories before the fact, are guilty
of high Treason, by 13 *Eliz.* 2. And the Com-
forters and mainrainers hereof, shall incur a *Pra-*
emunire, and their Concealers Misprision of Treas-
on, unless they discover it within six weeks to
one of the Privie Council, or to one of the Pre-
sidents, or Vice-Presidents of the Councils in
the *North*, or *Marches of Wales*. And no other
Misprision of Treason is to be in this Case, upon
13 *Eliz.* 2. And these offences, all but Treason,
and Misprision of Treason, the Justices may
hear and determine in their Sessions, upon
23 *Eliz.* 1.

Bull.

Bishop of *Rome*.

Misprision of
Treason.

5. If any have, or pretend to have power; or
practise to absolve, perswade, or withdraw any
from

High Treason

Misprision of
Treason.

Supremacy.
Oath.

Popish Books.

from their natural obedience to the King, or for that intent, to withdraw them from the Religion established to the *Romish* Religion, and they who shall be so withdrawn or reconciled, their Procurers and Counsellors, are all judged Traytors. And their ayders and maintainers, that shall not discover them within 20 dayes, to a Justice, or higher Officer, are guilty of Misprision of Treason. But of these offences, the Justices have not Conusance in or out of Sessions, upon 23 *Eliz.* 1. By 3 *Jac.* 4. It is Treason to absolve, or withdraw any of the Kings Subjects from their natural obedience, to reconcile them to the Pope, or to move them to promise obedience to the See of *Rome*, or other Prince or State. Or to be absolved, withdrawn, or reconciled, is high Treason, unless he return within the Realm, and within six dayes after before the Bishop, or two Justices of the place where he shall arrive, submit to the King, and the Law, and take the Oath of Supremacy, and the other Oath in that Statute: which they are to give and certifie at the next general Sessions. But the Justices have not to do with this.

6. Two Justices, and all Maiors, Bailiffs, and head-Officers, may search the Houses and Lodgings of Popish Recusants convict, and of every person, whose Wife is a popish Recusant, for Popish Books and Reliques, and to burn and deface such as they shall find in their custody. But such as are of value, shall be defaced in open Sessions, and then restored to the owner, upon 3 *Jac.* 5.

SECT.

SECT. II.

About Jesuites and Priests, upon 27 Eliz. Chap.

2. *And about the Masse, upon 23 Eliz. Chap.*

1. *And Popish Recusants, upon 39 Eliz. Chap. 2.*

1. IF any person knowing of a *Jesuite* or *Priest* Out of Sessions to remain within any of the Kings Dominions, do not within 12 dayes, discover it to some Justice, he is to be fined and imprisoned at the Kings pleasure.

2. And the Justice that shall not within 28 Certificare. dayes, disclose it to some of the Privie Council, or the President, or Vice-President of the Councils in the North or Marches of *Wales*, shall forfeit 200 Marks.

3. And if any Justices shall receive any Oath, Bond, or Submission from any such *Jesuite* or *Priest*, upon 27 *Eliz.* 2. are to be certified by them into the *Chancery*, within three moneths, on pain of 100 li. upon 27 *Eliz.* 2. But the Justices in their Sessions, have no power to do any thing else within, or without their Sessions, upon 27 *Eliz.* 2.

4. All *Jesuites* and *Seminary Priests*, brought up beyond Sea, and not yet in Orders by the jurisdiction of the See of *Rome*, and that shall not within 6. moneths after Proclamation made in *London* in that behalf, return into the Realm, and within two dayes of his return before the Bishop, or two Justices of the County where they arrive, submit to the King and his Lawes, and

take the Oath of Supremacy are Traytors, upon 27 Eliz. 2. But the Justices cannot in or out of their Sessions, punish this offence.

SECT. III.

About the Masse, upon 23 Eliz. 1.

Sect. 3.

And about the Masse, that is to be known.

1. **T**hat none may say or sing Masse, on pain of 200 marks, and a years Imprisonment, and till the Fine be payd, upon 23 Eliz. 1.

2. That none may hear Masse on pain of a years Imprisonment, and 100 mark, upon 23 Eliz. 1.

3. And these offences, the Justices may in their Sessions hear and determine, upon 23 Eliz. 1. And there if the offender shall submit, and conform before Judgment, he is to be discharged.

Out of Sessions.

4. One Justice, within 3 dayes said a Masse said, may take information of it. 3 Jac. 5.

SECT. IV.

About Recusants, upon 1 Jac. 1. 4. 3 Jac. 4. 5. 23 Eliz. 1. 27 Eliz. 2. 29 Eliz. 6. 35 Eliz. 1. 21 Jac. 28.

And for Popish Recusants, this is to be known,
1. That

1. That the Recusant that doth conform, is within a year after, and once every year to receive the Sacrament of the Lord's Supper, in pain to lose for the first year twenty pounds; the next forty pounds; and every year after sixty pounds; and so for every years default sixty pounds. And these Forfeitures may be recovered before the Justices, in their Sessions, upon 3 Jac. 4. And the Justices may there hear and punish these Offenders. So the Justices are to hear and determine all but Treason, upon 23 Eliz. 1. *Leonards Rep. Case 322.* upon 35 Eliz. c. 2. All that the Justices have to do in their Sessions, is onely to record the names of such convict Recusants, as are sent in writing to them, under the hands of the Minister, Constable, and Headborough, upon 35 Eliz. 2. and require, and take the Submission set down in the Statute, or take, and certifie to the next Assize or Gaol-Delivery. See the Abjuration of a Popish Recusant, that shall not repair to his place of abode, or depart from thence, contrary to the Statute, *Latches Rep. 16.*
2. Upon 3 Jac. 5. The names of Popish convict Recusants in *London*, or ten miles of it, are to be brought in to one of the Justices, amongst others.
3. Upon the same Statute 4. of the next Justices to a Recusant, under their Hands and Seals, with the assent in writing of the Bishop, Lieutenant, or Deputy-Lieutenant, may Licence him to go about his business, and not break the Stat. of 35 Eliz. 2.

Out of Sessions.

Licence.

4. The Arms and Munition of a Recusant, by 3 *Jac.* 5. may by Warrant from four Justices made at Sessions, be taken from him, other then what those Justices will allow him, to be kept at the charge of the Recusant, where the Justices shall appoint. And if he refuse to discover what Arms he hath, or to deliver it, where it is appointed, he doth forfeit; and for it may, by Warrant from a Justice, be committed three moneths without Bail.

5. The Husband will be chargeable for the Recusancy of his Wife, upon 23 *Eliz.* chap. 1. albeir, he himself be conformable, *Bulstr.* 3. Part 87. *Cook* 11. 56. and so such a Wife is liable to the twelve pence a day, for not coming to Church, upon 1 *Eliz.* 2. and it may be levied of his Estate.

Husband and
Wife.

Church-War-
dens, and Con-
stables.

6. The Church-Wardens and Constables of every Parish, or one of them, may, or (if there be none) the High-Constable, may present the monethly absence from Church of Popish Recusants, and their Children, above nine years old, and their Servants, and the age of their Children, as near as they can, in pain of twenty shillings for every default: and this Presentment, the Clerk of the Peace, or Town-Clerk, shall record without Fee, in pain of twenty shillings. And if he be convicted upon this, he that makes the Presentment, is to have fourty shillings, if the Justices think fit, to be levied by Warrant from the Justices, upon his estate, upon 3 *Jac.* 4. And after this Conviction, or by Proclamation, to render himself; and for default thereupon, the Offender is to pay twenty pounds a moneth into the Exchequer, in *Easter* and

and *Mich.* Term, or two thirds of his Lands and Leases, which the King please to have. This Conviction is to be certified in the *Exchequer*, before the end of the next Term after it is done, upon 3 *Jac.* 4.

7. If a Recusant be convicted, upon 23 *Eliz.* it seems the twenty pounds a moneth to the King is lost, and not saved, by 28 *Eliz.* *Lane's Rep.* 93.

8. The relapsing Recusant loseth the benefit he was to have by his Submission, *Bulstr.* 1. Part, the Lord *Vaux* Case, 133, 197. Part 2. 155. *Croo.* 1. 362. *Croo.* 2. 529, 480.

9. If one be a Fugitive into another County then his own, to evade the Statute against Recusants, by being put upon the Oath, he may be indicted for Recusancy, and the Indictment removed into the *King's-Bench*, and there make out Process against them in any County of *England*.

Sett. 5.

Recusant, how to be prosecuted.

10. And if such persons keep their house, they may be indicted before the Justices of the Peace, or of the Assizes, and after a *Venire Facias*, &c. by force of a *Capias*, their houses may be broken up, to take them.

Break open houses.

11. If one be indicted for Recusancy, the Court may proceed by Process, upon 23 *Eliz.* or by Proclamation, upon 28 *Eliz.* and the Process for the Indictment for Recusancy, is *Venire Facias*, *Capias*, &c. as in Trespass. And if upon this, he will not open his door, the Sheriff, after request to open it, may break it open, and take him; and if he shall refuse there to take the Oath, he may be indicted in the Sessions, and

a general Indictment will serve, when the Sheriff shall bring in a Recusant to the Sessions.

Out of Sessions.

12. But if Justices, out of Sessions, upon refusal to take the Oath before them, commit any person to Gaol without Bail; and mention, in their Warrant, the Tender and Refusal, the Justices of the Peace, or of the Assizes, ought to render the Oath again, and have a special Indictment. But if the *Mittimus* do not comprehend any Tender or Refusal, then he may be generally indicted, as upon Refusal in open Court. *Idem.*

Mittimus.

Indictment.

13. That if the Indictment be laid upon 3 *Jac.* the Refusal in open Court, it may be short and general: But if it be laid upon a Commitment, made by two Justices, this is good of any person whatsoever. But if the *Mittimus* expresses the Tender and Refusal, and be special, there must be a special Indictment, That the party was indicted, according to 7 *Jac.* and that he refused before one Justice, or in open Court, *Cook* 12, 130, 131. Resolve of the Judges.

Out of Sessions.

14. One Justice may require a Popish Recusant, within three moneths after his Conviction, to submit, and declare his conformity to the Laws of Recusants. And, in case he do not, he may (if it be not a Feme Covert) require him to abjure the Realm: But the Abjuration must be at the Quarter-Sessions, 35 *Eliz.* 1. 21 *Jac.* 28. Yet a Popish Recusant may abjure before two Justices of Peace, by 35 *Eliz.* 2.

15. But

Abjuration;

15. But there must be two Justices, to require a Popish Recusant (above sixteen years old, which shall travel above five miles from his dwellin without Licence, if he have less then twenty Marks Free-hold, *per annum*, or fourty pounds in goods) to conform in three moneths, or else abjure, 35 *Eliz.* So to examine one suspected to be a Jesuit or Priest, that refuseth to answer directly, and to commit him to Gaol without Bail, till he do so, 35 *Eliz.* To give an Oath to a Recusant licensed by them, and two others, to travail. And so, and not otherwise, they must be licensed to travail by four Justices, 3 *Jac.* 5. To search the houses, of them who are themselves, or whose Wives are Recusants, for Popish Books and Reliques, and burn them; or, if they be of value, deface and restore them. To take the submission, of one reconciled to the Pope, within six days after his return, 3 *Jac.* 4. And there must be two, *quorum unus*, to commit to Prison a Feme Convert Recusant, not conforming in 3 moneths, unless her Husband will pay twenty pounds a moneth, or the third part of his Lands, 7 *Jac.* 6. 35 *Eliz.* 2. 27 *Eliz.* 1.

CHAP. XV.

About the Peace, and Good Behaviour.

Sect. I.

A Great part of the Office of the Justice (as we have before hinted) lyeth in his care, to keep the Peace of the County, both to prevent the breach of it before, and to punish it after it is broken. And in order to this end, and for his better enablement herein, and to correct and restrain such persons, as are like to break it; he may, in many cases, require such persons as are dangerous, and likely to break it, to put in Sureties to keep the Peace, or to be of the Good Behaviour; and, in case of refusal, send them to Gaol till they do it. For the knowledge whereof, take these things. First, About the Surety of the Peace, and Good Behaviour both;

The Peace.

Surety for it.

1. That Peace is said to be, a quiet and harmless carriage and behaviour towards all people; and the Surety for it, is, the acknowledgment of a Bond to the King, taken by a Judge of Record, for the keeping of this peace. And the good Behaviour is much of the same nature; and the Surety, much like the Surety for the Peace: But that this is greater then that, and doth comprehend the Surety for the Peace, and much more; and less will break this, then will break the other.

About

About the Peace, take this.

First, That all men are to keep this Peace amongst themselves, and amongst others, and no man may break it; and herein, every man is to be a Constable amongst others.

Secondly, This Peace is broken, when any thing is done contrary to that quiet, friendly, and harmless Behaviour, required of all men: and this may be done many ways.

Thirdly, That this is taken by a special Writ from the *Chancery*, or another Court; and sometimes, and most commonly, by their own power, as Justices of the Peace.

In and out of Sessions.

2. The Justices in their Sessions, and any one Justice of Peace out of Sessions, may grant this Surety of the Peace. And it is the duty of every Justice, in case where any man shall complain to him, and offer his Oath against another, that he standeth in fear of his life, or some bodily hurt, that he will do to him, or that he will burn his house, (whether it be true or false) is to require it. Or in some cases, he may (perhaps) grant it without Oath. And so, any Justice of his own head, and by his own authority, without any complaint of another, may put any man upon giving Surety of the Peace, that he knows to be a common Ryotor, or common Barretor; or that maketh an affray upon the Justice himself, or upon another in his presence; or that is about to make an affray, or that doth threaten another to beat, or kill him, or burn his house, or go, or ride armed in a terrible way, &c.

3. The Justice having this ground, as before, for the doing of the thing, is thus to do it. He is to send his Warrant to the Constable, or such

Seet. 2.

such like Officer of the place, where the man dwells, to bring him before him, or some other Justice of Peace of the County, to give Surety for the Peace; and, if he refuse, to carry him to Gaol, till he do so: or, if the party be before him, he may require him, then and there, to do it; and, for refusal, send him to Gaol.

4. And if the party, when he shall come before the Justice, shall refuse to put in Sureties before the Justice, that sent his Warrant for him; or before any other Justice, to whom he is brought by the Constable; the same Justice before whom he is, is to send him by a *Mittimus* to Gaol, there to remain, till he do put in Sureties so to do.

5. The number and sufficiency of the Sureties, and the sum in which they are to be bound, is in the discretion of the Justice, or Justices, that do bind; but commonly there are two Sureties bound with the Principal, and the Principal is bound in twenty pounds, and the Sureties in ten pounds apiece. And the sum, in reason, may be greater, or less, as the Case is more, or less dangerous. If the Justice see cause for it, he may stand upon 1000 *li.* Bond, and very good Sureties, if the person be a dangerous person, &c. *Stile's Rep.* 322.

6. It seems to have been agreed by the Judges, *Croo.* 1.322. That, in this Case, a Justice may take money, to lye *in deposito*, for the security of the peace; and that if he doth not keep the peace, the money shall be forfeit to the King.

7. Any

7. Any one man or woman, that is in fear of danger of harm by another, and will offer his or her Oath in it before any Justice, may have it, against any Lay or Spiritual person, man or woman. The Wife may have it of the Husband, the Husband of the Wife; the Wife to be bound by Sureties not by her self. It may be had for, or against one attainted of Treason, or Felony; for, or against one drunk; for a dumb, and against a man dumb, and not deaf: For, or against an Infant: For, or against a Mad-man. Against, but not for an excommunicate person. And finally, against any person that may have it. And it may be in the Cases, and for the causes before laid down. And in some other Cases, where a man doth go or ride armed, in a terrible way, or some such like cases. But for, an after an affray is past, and without any such Oath taken, or cause of suspicion of a new affray, it is not safe for a Justice to send this Warrant, or to press the giving of this Surety, or to send to Gaol any man refusing to give Surety; for this power is given him, to be exercised to prevent danger. And when the same is past, some other means is to be used, for the punishment of the breach of the peace therein, *Stile's Rep.* 324.

Who may; against whom; and for what cause this is grantable, or not.

Stat. 3.

In, or out of Sessions.

8. It is said in this case, That a Justice may arrest a man, to find Surety of the Peace, at his discretion; and where he doth so, he may also set him at liberty, without finding Sureties; and, in this case, the Justice cannot be questioned for the Arrest; for in this he is a Judge of Record, *9 Ed.* 4.

Upon a Suppli-
cavi.

Out of Sessions.

Supersedeas,

9. This Surety of the Peace, the Justice is sometimes commanded to take by Writ from a higher Court. And thereupon he is to send his Warrant, to bring the party before him, to be bound according to the Writ; and, if he refuse, to send him to Gaol. And, after Sureties taken, he is to grant a *Supersedeas*, to stop all other Warrants, and proceedings thereupon, granted by himself, or any other Justice, to that end. But he need not certify this, till a *Certiorari* come to require it.

10. And about the Good Behaviour, and Surety thereof, the Justice doth proceed in the same manner, in the sending of his Warrant, to bring the person before him, or some other Justice; The taking of the Recognizance, Sureties, and Sum, to the King; and the sending of him to Gaol by *Mutimus*, as he doth in the requiring of Surety of the Peace. But in this case it is always done, either of the Justices, by their own discretion, and upon their own knowledge; or (which is the usual way) upon Articles of Accusation exhibited, or Informations exhibited, and those proved by substantial Witnesses. And yet (perhaps) in some special Cases, a Justice may, of his own discretion, and without any special Information, put a man to give this Surety, or send him to Gaol. And yet it is held, That the Justice may not bind to the Good Behaviour, nor commit to Prison, for refusal to give Surety, upon a general Accusation, without some particulars, *Pasch. 23 Car. 1. B. R.* This is grantable, and usually granted by the Justices, against the Offenders, and for the offences following, *viz.* Against one that is of evil name and

In what Cases,
and for what
cause, this is
grantable, or
not.

Sect. 4.

and fame in general; a dangerous and suspicious person; or one that keepeth company with such, especially if he be defamed or detected in one of the particulars following, 34 *Ed.* 3. 1. viz.

1. One that shall deface or break Superstitious Pictures, in any Window of a Church, without Licence from the Ordinary so to do, *Croo.* 2. 366, 367.

2. One that is poor, and doth not put himself into service, according to the Order of the Justices of Peace, *Resol. Judges*, 1633. *Sect.* 37.

3. Bayliffs that shall arrest a Minister on the Sabbath-day, going to, or returning from Church.

4. One that shall abuse an Officer of the Peace, (whatsoever he be) in the execution of his office.

5. One that is a common Breaker of hedges, or Robber of Orchards, or Wood-stealer, *Dalt. Instit.* p. 173.

6. One that shall make, and raise a false Hu-and-Cry without cause.

7. One that refuseth to watch in his turn, being required by the Officer, *Dalt. Just. Peace*, 173.

8. One that is a Thief, Robber, a common Cheater, or Couzener, that gets money by false Tokens, false Dice, counterfeit Letters, or the like.

9. A common Quarreller, Fighter, or Breaker of the Peace.

10. A common Libeller or Slanderer.

11. One that shall endeavour to poyson men,

men, or doth poyson Poultry, Cattle, or other such like Creatures.

12. One that shall lye in wait to rob, maim, or kill men.

13. A Ryoter.

14. One that keepeth, or haunteth Bawdy-houses.

15. One that hath, or is suspected to have a Bastard, a common Evefdropper, a common Night-walker, a common Barretor.

16. One that lives inordinately (having no estate) out of any Calling idly, fareth and goeth well, and no man can tell how he comes by it; especially there, where he cannot give the better account of it to a Justice.

17. One that shall manifest Contempt to Magistrates, and men in Authority; especially if it be in the execution of their Office.

18. One that is a common Messenger for Thieves.

19. One that shall cast down Chamber-pots on men, or meats, of purpose to spoil, or do mischief.

20. One that shall cast mens Gates and Carts into Ponds, and other like Feats, in the Night.

21. One that is acquitted upon a Tryal of a Felony, if he be a person of evil name.

22. One that shall abuse a *Supersedeas* to a wrong end: as where *A.* is bound to keep the peace against *B.* and getteth a *Supersedeas*, and then *B.* releaseth him: And after being arrested for Surety of the Peace at anothers Suit; and then he doth, to discharge himself, maketh use of this *Supersedeas*.

23. One

23. One that shall suborn a Witness of Perjury.

24. One that shall accuse another before a Justice, of any Crime; and, being put to make it good, doth wave it.

25. So one that complains of a Ryot to a Justice, and having drawn him to the place, will not follow it, but deludes him.

26. So one that being appointed by the Justices to take an Apprentice, and upon his Refusal, is bound over to the Sessions, doth there refuse it.

27. So one, that being required by a Justice of Peace, to assist him in the execution of his Office, doth refuse it.

28. So one that shall sell Ale, contrary to the Order of the Justices.

29. So one, that being a material Witness for the King, doth refuse to give Evidence for him.

30. So one that shall conspire to take away another's life, and shall endeavour it by Indictment, or the like.

31. So one that shall threaten to beat, or shall beat a Witness, for giving of Evidence against him.

32. So one that hath committed a forcible Entry, or Detainer, Ryot, or the like offence, *Dalt. Just. of Peace. 34 Ed. 3. chap. 1. Cromp. Just. of Peace, Cook II. 105. Resol. Judges temp. Car. I. March II. Pl. 30. Winches Resp. Case 4. Resol. Judges, 1633. Sect. 17.*

33. So one that hath been drunk the second time, by 4 Jac. 5. 21 Jac. 7.

34. So one that reporteth false News, by
Westm. 1. 34. 2 R. 2. 5.

35. So one that is attainted for Felony, and
hath his Pardon, by *12 Ed. 3. 10.*

36. So one that shall disturb and hinder the
execution of the Statute against Rogues, by *39*
Eliz. 4.

37. So one that shall wilfully disturb a Mi-
nister in his Sermon, &c. upon *1 Mar. chap. 3.*

38. So one that shall destroy a Fish-pond;
steal Fish out of Ponds, Deer out of Parks; or
that shall take, or kill Conies in Parks or War-
rens; or that shall take Hawks, or their Eggs, out
of other mens grounds, by *5 Eliz. 21. 3 Jac. 12;*
13.

39. So a Woman that hath had a Bastard the
second time, by *7 Jac. 4.*

40. So one that hath a Plague-sore upon
him, and is commanded by Officers to keep in,
and goeth abroad, by *1 Jac. 31.*

41. So one that shall by colour of false To-
kens, or false Letter, in other mens names, shall
compass to get, or shall get another man's goods,
or money into his hands, by *33 H. 8. 1.* But
there must be two Justices, *quorum unus*, to do
this.

42. So one that shall hinder the execution
of the Statute against Rogues, or help to convey
away the putative Father of a Bastard-Child.

43. And such as put out such Poor out of
their Parish, as ought not to be put out, by *39*
Eliz. 4.

Sect. 5.

All these may, by the Justices within, or with-
out their Sessions, be bound to the Good Beha-
viour

viour. But upon the Ordinances or Acts of 17 Septem. 1656. June 29. 1654. 17 Septem. 1656. there is nothing now for Justices of Peace to do.

All these, and such like, upon proof of the things against them, before any one Justice of Peace, he may (in all the Cases, but what are after excepted) put them to give Sureties for their Good Behaviour, and to appear at the Sessions; and, if they refuse so to do, the Justice may send them to Gaol: But in the Cases following, there must be more than one Justice to do it: As the Disturbers of the Execution of the Statute about Rogues, and the Poor, by 39 Eliz. 4. Of them that have the Plague, and obey not the Officers' Command, by 1 Jac. 31. And of her that hath a Bastard the second time, by 7 Jac. 4. These, it is said, must be by two Justices, or in Sessions; yet the Statutes are indefinite, that they shall be bound, &c. The Disturbers of Preachers; Stealers, and Destroyers of Fish; and such as kill Deer and Conies; are to be bound in the Sessions, and not elsewhere, by the Statutes of 5 Eliz. 21. 3 Jac. 12, 13.

C H A P. XVI.

About Alehouse-keepers, Inne-keepers, Victuallers, Vintners, and their houses; and Drunkenness and Tipling; Butchers, Brewers, Bakers, &c.

Sect. I.

AS to these things, it is to be known;
 I. That an Hostler, or Inne-holder, is not to make Horse-bread within, or without, his house; but Bakers are to make it, and to observe the Assize in it, after the price of the Markets adjoining. And the Hostlers and Inne-holders, are to sell their Horse-bread, and their Hay, Oats, Pease, Beans, Provender, and all kinds of Victuals, for Man and Beasts, at a reasonable gain, having respect to the prices at which they are sold, in the Markets adjoining, without taking of any thing for Litter. And yet if he live in a place that is a Thorow-fare, (no City, Corporate or Market-Town, wherein there is a common Baker, that hath been seven years Apprentice to the Trade) he may make his own Horse-bread, so it be of due Assize, and after the prices of Corn, 21 Jac. 21. And he that offends herein, in any particular, is for the first Offence to be fined. For the second offence, to suffer a Moneths Imprisonment without Bail. For the third offence, to be set on the

the Pillory. And for the fourth offence, to be fore-judged for ever, to not keep an Inne again. *In the Sessions.* And this the Juſtices (in their Sessions) may do. But upon 32 *H. 8.* 41. 12 *Edm.* 2. 6. 23 *Ed.* 3. 6. 31 *Ed.* 3. 10. 6 *R.* 2. Statute 1, 9, 10. 12 *Ed.* 4. 8. 25 *H.* 8. 2. about Viſtuallers, the Juſtices of the Peace have nothing to do within, or without, their Sessions. Nor have they to do with 23 *H.* 8. 4. but to ſet down the prices of Ale and Beer. And the Statute of 33 *H.* 8. 10. doth not give Juſtices power to enquire upon 23 *H.* 8. For the words [Viſtuals, and Viſtuallers] there, are to be underſtood of Alehouſe-keepers, who ſell by Retail, and keep not the Aſſize: and theſe the Juſtices may puniſh.

2. Viſtuallers are to ſell their Viſtuals, at ſuch reaſonable prices, as ſhall be ſet down by the Juſtices of Peace, at their two Quarter-Sessions, to be kept between *Eaſter* and *Michaelmas*, in pain to be puniſhed, at the diſcretion of the Juſtices, where no pain is before ſet down; and not to diſpenſe with any bodily puniſhment, 13 *R.* 2. 8. *In the Sessions.*

3. The Juſtices are twice a year, to cauſe *In the Sessions;* all the Statutes concerning Viſtuallers, to be proclaimed, 23 *H.* 6. 13.

4. Butchers, Brewers, Bakers, Poulterers, Cooks, Coſter-mongers, or Fruiterers, are not to conſpire, or agree, not to ſell their Viſtual, but at certain prices, in pain of ten pounds, for the

first offence : And this not paid in six days after Conviction, twenty days Imprisonment ; and, in this time, to have nothing but bread and water. For the second offence, twenty pounds ; and, this not paid in six days, the Pillory. And for the third offence, forty pounds ; and, this not paid within that time, the Pillory, and the loss of one of his ears, and to be ever after infamous. And this the Justices of Peace, in their Sessions, may hear and determine, 2 and 3 *Ed.* 6. 15.

In the Sessions.

In the Sessions.

5. The Justices have also power to hear and determine any offence, upon 1 and 2 *Phil.* and *Mar.* 5. about Transportation of Beer, Butter, Cheese, Herring, or Wood : But as to the Transportation of Corn, see 13 *Eliz.* 13. 1 *Jac.* 25. 21 *Jac.* 28. and 3 *Car.* 4.

6. Victuallers, Alehouse-keepers, and such like Tradesmen, may buy and sell again in their houses by way of Retail, and not be under the penalty of the Laws made against Fore-stalling, &c. 5 *Ed.* 6. 14. 13 *Eliz.* 25.

And as to Inns, and Ale-houses, take these things.

Stat. 2.

1. That any one that will, may erect and keep an Inne for the entertainment of Strangers onely, without any Licence from the Justices of Peace. But if an Inne-keeper will sell Ale, Beer, or Cyder, by Retail, in his house ; or will entertain others, besides Strangers, in any case ; there

there to be drinking, or eating for money. In this Case, he must have a Licence from the Justices, *Resol. of the Judges, 22 Jac. Hutton's Rep. 99.*

Out of Sessions.

2. That Justices of Peace, may not within, or without their Sessions, put down an Inne, or discharge an Inne-keeper, from selling of Ale, Beer, &c. although the man be unfit, the place inconvenient, or he keep disorder: But he and his house, may be suppressed, by way of Indictment against it, as a common Nuisance, at the Assizes, or Sessions. And if an Indictment be against such a man for disorder onely, the Judgment is to be, to disable him onely, as to that Inne: But another man may keep it as an Inne still, *Hutton's Rep. 100.*

In and out of Session.

Common Nuisance.

3. The Justices may (at their pleasure) stint the number of Alehouses; but they may not stint the number of Inns. Nor is there any way so likely, to suppress, or restrain the Inns, as to hold them to the strict observance of the Laws for Assize, and about Tipling made, *1 Jac. 9. 4 Jac. 4. 1 Car. 14.*

In and out of Sessions.

4. No disability may be of an Inn-keeper for three years, upon *21 Jac. 1.* as may be of an Alehouse-keeper.

5. None may keep an Alehouse, or sell Ale, Beer, Perry, or Cider, without Licence granted, either in Sessions, or by two Justices, *quorum unus*, in pain of three days Imprisonment without Bail; and then he is not to be set free, till

Licence granted.

he, with two Sureties, hath entred into a Recognizance, that he shall do so no more, 5 and 6 Ed. 6. 25. But they may sell in Towns, where Fairs are kept, during the Fair-time.

In and out of
Sessions.

6. The Quarter-Sessions, or two Justices, *quorum unus*, may put down Alehouses at their discretion, and take Recognizance, with Surety, of them that are Licensed, that they shall not use unlawful Games, or other disorder in their houses. And, for this Recognizance, there shall be but twelve pence paid. And this the two Justices are to certify to the next Sessions, in pain of five Marks. And the Justices may, upon breach of this Recognizance, send out Process, and hear and determine it, 5 and 6 Ed. 6. 25.

7. None may keep an Alehouse (but in a Town at the Fair-time) without Licence, in pain, for the first offence, of twenty shillings to the Poor; which the Constables and Churchwardens (by Warrant from the Justice, before whom the offence is proved) may levy by distress; and, not paid in three days, may be sold to satisfy the penalty: And the party not having to satisfy, the same Justice may (by his Warrant) commit him to the Constable to be whipt: and if the Constable do not execute it, he is to be imprisoned without Bail, or pay fourty shillings to the use of the Poor. And here the View of one Justice, Confession of the party, or Proof of one Witness, will be a sufficient Conviction. For the second offence, to be committed to the House of Correction for a moneth:

In or out of
Sessions.

moneth: And, for the third offence, till he be from thence discharged by order of Sessions. But he that is to be punished upon 5 and 6 Ed. 6. 25. is not to be punished upon this Statute. And so *e converso*, the Justices (as it seems) may do no more within, than they can do without, the Sessions, on this Statute.

8. That no Inn-keeper, Victualler, Vintner, or Alehouse-keeper, may suffer any Town-dweller, or any other person whatsoever, to sit tipling in his house, in pain of ten shillings, to the use of the Poor; the Offender to be convicted by the view of the Justice, proof of one witness upon Oath, which one Justice may administer; or his own Confession is a sufficient Conviction. This is to be levied by the Constables, or Church-wardens of the place, where the offence is done, of their own authority, without Warrant; the Justice is onely to give notice of the Conviction to them, and they are to distrain for it, and after six days, sell the distress to pay it: and, for lack of distress, he is to be imprisoned, till he pay the penalty, 1 Jac. 9. 4 Jac. 5. 21 Jac. 7. And the Oath of the party, confessing he hath been Tipling, or drunk, in an Alehouse, shall be sufficient, to convince the Alehouse-keeper of this offence, by suffering Tipling, &c. 21 Jac. 7.

Tipling suffered.
Sect. 3.

In or out of
Sessions.

9. No Inn-keeper, Victualler, or Alehouse-keeper, may sell less than a full Ale-quart of the best Ale, or Beer, or two quarts of the small, for one penny, in pain of twenty shillings to the Poor. In this, the view of one Justice, or proof of one witness upon oath, before one Justice, is a good Conviction of this offence. And this is to be

Less than measure.

In or out of
Sessions.

be levied, and the Constables, or Church-wardens, and Justice, are to proceed in the levy of it, as they are to do in the last, for the penalty for Tipling. And if in either of these Cases, the Officer shall neglect to levy the money, or to certify lack of distress within 20 days, he forfeits 40 s. The Officers, in both Cases, to be accountable to their Successors. So that in both these Cases, the Justice, or any one Justice, is, upon his own sight of the offence, the Confession of the Offender, or the proof thereof, by the Oath of one witness, which he may administer, convict the Offender of his offence; and, after his Conviction, he is to give notice of it to the Constables, or Church-wardens of the place, and call upon them, to do their office therein, which is to levy the penalty upon the offenders goods, by way of distress, and sale of his goods, after six days, rendering the overplus: And if not paid, or there be no distress to be had, the Constables, or Church-wardens, that had the notice, are to certify the same unto the Justice of Peace: and thereupon he to send his Warrant to commit the Offender to Gaol, till he pay the forfeiture. And also to give him notice, that he is disabled for three years, to keep any Alehouse again. And if these Officers do not levy the money, nor certify the lack of distress, nor non-payment, within 20 days, to the Justice; the Statute is, That the Justice of Peace, by Warrant under his Hand and Seal, shall levy 40 s. penalty upon them, by way of distress of goods, to be prized and sold after six days; and, for want thereof, the Officer to be sent to Gaol, till payment. But there is no way set down, how the

Con-

Officers neglect.

Constable or Church-warden may be convicted of the offence. But there is a power of *Oyer* and *Terminer*, of the offence given to the Justices, by the *Act* of 4 *Jac.* 5. Therefore it is not safe for any Justice to give forth a Warrant out of the Sessions, in this Case, to levy the penalty upon them, but to let it be done by the Sessions. Nor are the Justices here to send their Warrant, to levy the 10 s. of the offender for Tipling, or the 20 s. for selling less than measure; for the Constables and Church-wardens are, by their Offices, to do it without Warrant. And yet it may seem reasonable, that the Justices send them a Warrant, and thereby require them to execute their Offices herein, 1 *Jac.* 9. 21 *Jac.* 7. 1 *Car.* 14. 3 *Car.* 13. And, for their neglect, they may be punished in Sessions, by the Common-Law, by Fine, &c.

Caveat to Justices.

10. That none may sell Ale or Beer to an unlicensed Alehouse-keeper, save onely for the expence of his household; in pain of six shillings, eight pence, for every Barrel; and so more, or less, according to the proportion: To be prosecuted in the Quarter-Sessions; and the forfeiture to be divided between the Prosecutor, and the Poor, &c. 4 *Jac.* 4.

Sale of Beer.
In the Sessions.

11. That an Alehouse-keeper lawfully convicted, of any of the offences aforesaid, forbidden by 1 *Jac.* 9. and 4 *Jac.* 5. shall be disabled to keep an Alehouse, within three years after, 7 *Jac.* 10. But it is not so with an Inn-keeper, 21 *Jac.* 7.

Alehouse-keeper disabled.
Sect. 4.

12. That

About Alehouse-keepers,

Vintners.

11. That *Vintners* that keep Inns and Victualling-houses, are to be bound by the Statutes of 1 Car. 14. 1 Jac. 9. 4. Jac. 1. as to the offence of Tipling, and the other offences named in the Statutes. But the other Statutes made against *Alehouse keepers*, do not bind *Vintners* or *Inn-keepers*, unless they be named in the Statute. And therefore they are not taken to be included within 5 & 6 Ed. 6. 25. See 1 Car. 4.

Tipling used.

Out of the Sessions,

12. That if a Townsman, or stranger, shall be in any such common house tipling, (and not invited by a Traveller, and during the Travellers stay there only); In this Case, any one Justice of Peace, may upon his own view thereof, the confession of the party, or proof of one Witness upon Oath, send his Warrant to the Constables of the place where, &c. to levie of the offenders goods, to the use of the poor, 3 s. 4 d. by way of distress and sale, rendring, &c. And for want of distress, to set him in the Stocks for 4. hours, and to give the Inn-keeper notice, that he is disabled for 3. years. 4 Jac. 5. 21 Jac. 7. But Labourers that are there for the convenience of their work; or one that is there for cause to be allowed by 2. Justices of Peace, are not to be reckoned offenders within this Statute.

Drunkennes.

Sett, 5.

13. For him that is drunk: In this case, for the punishment of him, any one Justice of Peace may, upon his own view of it, or the offenders confession thereof, or the Oath of one Witness, convict him. And for the first offence, he is within a week after the Conviction, to send his Warrant to the Constable of the place where, &c. to levie of the offenders goods, to the use of the poor, 5 s. by way of distress of goods, and sale

ſale thereof within a week, if the money be not payd. And for lack of diſtreſs, to put the Offender in the Stocks fix hours. And albeit, there be not in the Act an expreſs power given to the Juſtice, or any other to do this; yet it is conceived, that the Juſtice may ſafely do it, by the Preſident made for that purpose in my Clarks Cabiner. For the words of 4 Jac. 5. are, That if the offender lack a Diſtreſs, he ſhall be committed to the Stocks fix houres; but it doth not ſay, The Juſtice ſhall commit him to the Stocks, or that he ſhall ſend his Warrant to do it. But this (as it is conceived) muſt neceſſarily be underſtood. For the Act of 21 Jac. 7. hath theſe words, That one Juſtice may convict him, and the offender ſhall be puniſhed, as in the Statute is appointed. And if it be the Alehouſe-keeper that is drunk, the Juſtice is to give him notice, that he is diſabled for 3. years to keep an Alehouſe again. And for the ſecond offence of drunkenneſs, the Juſtice is to put him to give two Sureties in a Recogniſance of 10 l. to be of the good Behaviour. And here the Officer is to be puniſhed for his neglect 10 s. to be levied as the penalties upon 1 Jac. 9. But no way of Conviction is ſet down, except it be by the parties own Confeſſion upon the general words of 21 Jac. 7. in the beginning thereof. And therefore this being doubtful, it is not ſafe for the Juſtice to do it without, but to have it done within the Sessions, 4 Jac. 5.

In or out
Sessions. of the

Caveat to
Juſtices.

14. No Juſtice is to puniſh any man for this offence of drunkenneſs, after ſix moneths is paſt after the offence is committed. 4 Jac.

5.

15. A

15. A man may be convicted of this offence, before the Judges or Justices of the Sessions. 4 Jac. 5.

16. This *Act* is not to restrain Ecclesiastical Jurisdiction; none may be twice punished for one offence.

17. All Constables, Church-wardens, Headboroughs, Tything-men, Ale-cunners, and Side-men are to be charged in their Oaths, to present the offences of 4 Jac. 5. 1 Jac. 9.

Out of Sessions.

18. By all which we may observe, there must be two Justices *quorum unus*, to give License to any man out of Sessions, to sell *Ale*, Beer, Cyder, or Perry, and to take his Recognisance, by 5 & 6 Ed. 6. 25. So there must be two Justices to license a Labourer or other person, to be in an Alehouse tipling, upon 1 Jac. 9. So there must be two Justices *quorum unus*, to discharge, or put down an Alehouse-keeper, upon 4 & 5 Ed. 6. 25.

CHAP. XVII.

About the poor, and upon 43 Eliz. chap. 2. 39 Eliz. 17. 1 Jac. 17. 14 Car. 2.

AS to the poor, these things are first to be premised.

Sett. 1.

1. There are two sorts of poor. Such as are impotent, indigent, and poor indeed. And these are of two sorts also. Such as have been Souldiers or Marriners, and alive, or the Wives and Children of such dead; and for all these, the Law doth take care that they may be relieved; or they are such as are able to work, and are idle, and roguish. And for all these, the Law doth take care to punish them. And of the first sort in order to their relief, the Law doth take care of two things. (1) To settle them in the place where they ought to have relief. (2) That they be provided for in those places where they are settled. And in order to this, there is something to be done by Officers of the Parish, appointed of purpose to look to them. (3) Something to be done by the Justices of the Peace of the County wherein they live. (4) Something by every Inhabitant of the place. (5) And something of themselves.

2. The poor that are to be provided for, are such as are so by impotency, as the person visited with sickness, and thereby for the time disabled to work, the person naturally disabled in

Who are the poor to be relieved or not.

Wit,

Wit, or member, as the Ideor, Lunatick, blind, lame, &c. and the aged, decrepit persons that are past labour, or such as are so by casualty, as the poor man overcharged with Children, or he that is decayed by fire, Robbery, or Suretiship, or the like; or he that is casually maimed in his Calling, as a Souldier, husbandman, &c. and these only are to be cared for by the Overseers of the poor, for Work-Houses, &c. *Resol. Judges. temp. Q. Eliz. Sect. 6. 1633.* And not the thrifteleſs poor, such as spend all at play, drink, &c. the dissolute person, as strumpet, pilferer, &c. the sloathful person, that doth refuse to work, or wilfully spoil or imbezel his work: the Vagabond, that will abide in no Service, or place: such as will work, but not for the wages appointed. For these and such like, the Churchwardens and Overseers are not to take any care of them, if they have able bodies, and be in health, but to see that they be put to work; and if they refuse, that they be punished. Nor are they to take care for Houses, or other Relief for such as are able to work, and have, or may have work: nor yet for their Children; for the Parents are to maintain themselves and their Children by their work. But if they be over-burdened with Children, they may have help. Nor Rogues which are to be sent away.

Who may beg,
and where.

3. No poor may beg, but in their own Parish; and there by Licence of the Overseers of the poor. *Resol. Judges.* And the Overseers may not license any of their poor to beg in any other place, but in their own Parish. Nor may they license them to beg there in the High-ways.

wayes. *Resol.* of the Judges 1633. And without the License of the Overseers, they may not beg any where.

4. As to that which is to be done by Church-wardens and Overseers of the poor, and their Office, these things are to be known.

1. That the Overseers of the poor of a Parish, are Officers yearly appointed within it, for the oversight and ordering of them. And they are chosen or made by two or more of the Justices. *Quorum unus*, dwelling in or near the Parish under their Hands or Seals, to be joyned with the Church-wardens, to look to the poor of the place. And herein the Church-wardens of the place have an equal power, and charge with the Overseers; and therefore the common neglect of the Church-wardens herein, who in most places meddle not at all in it, is to be punished. But if there be but one Church-warden in the place, he and the Overseers together, may execute the Office, by 43 *Eliz. cap. 2.* And the Major part of these officers without the rest of them, may do any thing belonging to their Office. But they are to have the allowance and consent, either in particular, or in general, of two Justices of peace, *quorum unus*, to every thing they do about their Office.

Church-wardens
and Overseers of
the poor.
And their Office.
How chosen.

Sect. 2.

2. The Inhabitants of the Townships within the great Parishes of *Lancashire, Cheshire, Derbyshire, Yorkshire, Northumberland*, the Bishoprick of *Derham*, *Cumberland*, and *Westmerland*, are to take care for the poor of the Townships only, and yearly to choose Officers for the poor for that place, and these Officers shall have the same power in the place, for relief of their poor,

Q

and

Their Duty and
Power.

and forfeit the like penalties, as such like Officers of entire Parishes, by 14 *Car.* 2.

3. The Office of these Officers in general, is to relieve the impotent poor, set them to work that can work, and have work, help them to Houses, and to work that want it: place abroad the Children of such as have more then they can well maintain. And for this end, to raise a stock of money by a general Rate upon the Parish, by 43 *Eliz.* chap. 2. But to most of the things they are to do in their Office, they must have the consent of two of the same Justices. 2 *Car.* 1. chap. 4.

4. If any stranger come into the Parish, into any Tenement under the yearly value of 10 *li.* they may require sufficient Security of him, for the discharge of the Parish; and if he refuse, complain to the Justices, who may order him to do it. But the complaint must be within forty dayes, or it will be too late, upon 14 *Car.* 2.

5. They are to take care for none but the impotent, the rest must set themselves to work. And so for Houses, when they are without, they must provide for themselves; and when out of one Service, they must get into another.

6. That where the putative Father, or Mother of a Bastard-child, shall run out of a Parish, or County, and leave their children upon the charge of the Parish, having Estates sufficient to discharge the Parish, there the Church-wardens and Overseers of the poor of the place where the child is born, may seise so much of the Goods and Chattel, or Rents of his other Lands for the discharge of the Parish, and bringing up, and providing for the child, as any two Justices shall

shall order, and thereupon the Sessions is to dispose, and sell the goods and Cattle. And the Sessions may order the Officers aforesaid, what they shall receive of his Rents and Lands also for the purposes aforesaid. 14 Car. 2.

Sect. 3.

7. They may with the consent of two Justices *quorum unus*, where two Justices be within their limits, and where there is but one Justice, with the consent of that one Justice, set up, and use a Trade, for the better setting of the poor to work. 43 Eliz. 2. 3 Car. chap. 4.

8. All such as are sent to them, and lawfully settled amongst them (for which see Sect. 5. afterwards) The truly poor, such as are before described: all these not having sufficient means to maintain themselves, are to be maintained by the Parish; or if they can work, by their work, and the help of the Parish. And such as cannot work, are to be relieved by them at the Parish charge, or to supply them with what by their work they cannot do. And if they have not work, these Officers must provide work for them, and so houses for them, if they want houses. But they that are able to work, must work, and the Overseers are not bound to take care of them. *Resol. Justices. temp. Eliz. Sect. 6.* And they are to set to work the Children of such Parents, as by them shall be judged unable to keep and maintain their Children; and such persons married and unmarried, as having no means to maintain themselves, use no ordinary and daily Trade of life; and all those that cannot get work elsewhere, by 43 Eliz. chap. 2. All these they are to set to work. And if any such refuse

Work to be provided.

Houses to be provided.

to work, to complain to the Justices of them. But more particularly, as to their Office in this, it is to be known:

About the making of Rates.

1. That these Officers (for the doing of their work) may raise weekly, or otherwise by taxation of every Parson, Vicar, and other occupier of Land, House, or Tythes, or saleable underwoods within the Parish, such a sum as they shall think fit, by 43 *Eliz.* chap. 2. And this they must have allowed and confirmed under the hands of two Justices, *quorum unus*. And then by warrant from the same, or (as it seems) any two others (*quorum unus*) Justices, they may levy by distress and sale of goods, rendering the overplus. And in default of distress, two of the Justices may commit the party to prison without Bail, till he pay it, upon 43 *Eliz.* chap. 2.

How Rates are to be made.

2. And for the making of this Rate, the which Rate is for the most part, the Rule of the making of other Rates, take these things:

1. That the Rates of the Overseers of the poor, and Church-wardens must be well and duly made, according to mens visible Estates, real and personal, within the Parish only, and not for any other Estate elsewhere.

2. That a Parish in Reputation, shall be a Parish within this Law. So that if *A.* be an ancient Parish that hath Officers in it, and be a Town within this Parish, which for a long time hath been used, and reputed as a Parish, and hath all Parochial Rights, Church-wardens, &c. this place may be rated as formerly it hath been rated. *Hutton, Rep.* 93. *Cro.* 1. part 286. 65.

3. That

3. That it must be set upon the Tenants and occupiers of Lands within the Parishes, and not upon their Landlords living within, or without the Parish. *Resol. Judges 1633. Quest. 14.* by the Judges of Assize at *Lincoln. Bullst. 1. 354.*

4. That the Parson having a full tenth part of the profits of the place, he may be rated to a tenth part. *Resol. Judges 1633. Sect. 32.*

5. He that doth occupie Lands in his own hands, lying in several Parishes, he must be charged in every Parish for his Land therein, only according to the proportion thereof, and no more. But for his person & Estate, it seems reasonable he should be charged for this in the place where his person is.

6. The Farmer is to be charged for the Land he hath in Lease, and not the Landlord for the Rent he receiveth; for the Tenant is chargeable for the whole Land. And if the Landlord and Tenant both live in the Parish, the Tenant only is to be charged. *Resol. Judges. et Lincoln. 9. Car. 1.*

7. Every mans Land must be rated to this, and all other Rates, according to the quality, and yearly value, or by the pound; and not according to the quantity, and content, as a yard, half-yard, or the like.

8. Antient Demesne Land, Guyld-able, and Copy-Land, are all to be charged to these Rates.

9. A man may be rated to the poor, albeit he have no Land in the Parish.

10. Every Inhabitant, Parson, Vicar, and other; and every occupier of Lands, Houses, Tithes, impropriate, Propriations of Tythes, Cole-mines, and saleable underwoods, is to be rated.

Sect. 4.

11. By saleable underwoods, are not meant Timber, but any Wood for fire, albeit it be not cut in 30. or 40. years, as the Beech-Wood of many Counties.

Woods.

12. These Woods are to be proportioned to a yearly benefit, so that a man, if he have 100. Acres in a Parish, it must be cast what it will yield yearly to continue, and according to that it must be rated. So Mines are to be considered, Shops, Salt-pits, Sheds, profits of Fairs, and things which are real, and a yearly Revenue, what profit they bring in clearly every year, and accordingly they are to be rated.

Personal Estate.

13. Mens Lands are first to be rated, and then some respect is to be had, but with much caution to mens other visible ability of Stock of Cattle, Corn, or Grain, upon their Land, or of Goods: as Household-stuffe, Cloth, or other Merchandizes, Malt, or the like in his house. For that a man that hath a House bravely furnished, and 100 l. a year Land to it fully stockt, and hath 1000 l. in Cloth, Malt, or the like in his hands, to pay no more then he that hath a House, with bare Walls, and 100 l. a year, with scarce any stock upon it, seems most unreasonable. But for mens invisible Estate of money, &c. in respect of the incertainty thereof, no Rate may be set upon it. And so it hath been resolved by the Judges, *5 Car. 1.* And yet if a man be known notoriously to have an Annuity of 100 l. a year coming in to him, or 1000 l. lying in such a mans hand, for which he receives Interest, and perhaps it is all his Estate: it seems considerable, why in so clear a Case he may not be rated proportionably for it.

Money.

14. The

14. The Rate for Stock or Goods, it is thought reasonable, it be set after the proportion of Lands, (*viz.*) That 100 l. in Stock, be rated after 5 l. or 6 l. a year in Land.

15. In the making of Rates, respect is to be had not only to a mans ability, but also to the advantage he hath by the thing for which he is rated.

16. In some special Case, a man may be rated beyond his ability: as where one brings a charge upon a Parish; or under any pretence, brings in a man that may be chargeable in a Parish, he may, if there be cause for this, be raised in his Rate, to the full value of his Estate. *Resol. Judges.*

17. They may, if there be cause, put a special and extraordinary Rate upon any man, to help to place a poor mans Child Apprentice; But no Relief can be had in these Cases, but in the Quarter-Sessions, and when the Justices shall rightly understand the Case, they will not give Relief.

18. And in these Cases where a special Rate is put upon any man, as to help to bind an Apprentice, or the like, it may be levied as other Rates are levied. *Resol. Judges. Croo. 2. part 354.* Special Rates

16. At *Lincoln Assizes. 9 Car. 1. 19.* The two Judges, *Hutton* and *Crook* resolved, That Rates ought to be made according to the visible Estate real and personal, of the Inhabitants of the place, and not for what Estate he hath in other Parishes.

(2) This Rate so made (as is said) must be confirmed under the hands of two Justices *Quorum unus*. And it seems not necessary (as some

would have it, that it be done by the two Justices that appointed the Overseers; but it may be done by any two other Justices *quorum unus*.

Sett. 6.

(3) If the Parishioners pay not their Rate, the Church-wardens and Overseers may levy it by distress, and sale of their Goods, by a Warrant from 2. Justices *quorum unus*, and for want of distress, two such Justices may send him to Gaol, till he pay it, upon 43 Eliz. chap. 2.

(4) These Officers also (to help them in the execution of their Office) are to have the Forfeitures upon divers Statutes, for divers offences imposed on divers offenders: as upon the Statutes against *Alhouse-keepers* and *Tiplers*, about the sale of Tenters, default of *Clothiers*, eating flesh in Lent in a Victualling-house; for the taking of *Partridges*, profaning of Gods day, or Name; about the poor and Rogues.

Monethly
Meeting.

(5) The Officers are to meet every moneth in their Parish-Church, after Evening-Prayer, except they have some reasonable excuse for it to be allowed by a Justice of Peace to order the matter of their Office.

Forfeiture.

(6) And for every failure herein, or in any other part of the Duty of their Office, they forfeit 20 s. upon 43 Eliz. chap. 2.

(7) They are also to give an accompt. i.e. They are within 4. dayes of the end of their year, and after others are appointed to succeed them, to give an accompt to two Justices *quorum unus*, of these things. 1. What they have received, or raised; and not received. 2. What Stock in their hands, or in the hands of any of the poor. 3. What Apprentices they have bound. 4. What poor

poor they have set on work. 5. Whom they have suffered to wander. 6. Whether they have met monethly. 7. How they made and levied their Rates. 8. How they have executed the Justices Warrants. And the money in their hands they are to deliver over to their Successors in their Office. Or they forfeit 20 s. which may be levied by Warrant from two such Justices, to the Church-wardens and Overseers.

Erect a Cottage.

(8) The Church-wardens and Overseers also may (to make a provision for a poor man that wants a house) but not for a common Heardsman or Shepheard (with consent of the Lord of a Mannor, first had in Writing under his Hand and Seal) either of themselves, or with a Sessions-Order, erect a Cottage upon any part of the wast of the Mannor, and lodge Inmates therein, notwithstanding the Statute of 39 Eliz. But this Cottage may not be afterwards employed, otherwise then to lodge impotent persons there; for if it be, then it will fall within the penalty of that Act 39 Eliz. Resol. Judges 1633.

(9) They are to place Apprentices, the children of such Parents they judge unable to bear the charge of them; but not other mens Children. And they to whom they are placed, must receive them. But as to the power of Church-wardens, and Overseers of the poor, in the placing of Apprentices, with the Justices consent, and their Office in this, these things are to be known.

In the placing of Apprentices.

(1) They

Sect. 7.

1. They may bind them to be Weavers, Masons, or of any other Trade, as well as Husbandry, or Housewifery.

2. So they may bind Apprentices, any that are above seven, and under fourteen years of age.

3. They may bind the Male-child, till he be 24 years old; and the Female, till she be 21 years old, or be married, which shall first happen.

4. This placing, may be to any man they think fit to receive him, within the same Parish, and elsewhere, with, or without money: Howbeit, in this Case, it is fit to consider, if the Child be young, and the Party, to whom they place him, not very able; for they may give money, if they will, as they and the party shall agree, *Resol. of Judges, 1633. Quest.*

1.

5. That all men that have, or may have use for Servants; as Knights, Clergy-men, Gentlemen, and Yeomen, as well as Tradesmen, are bound to take them, or contribute towards the placing of them; yea, although they do not keep Servants, but be Sojourners, or the like; if they use Husbandry, Cloathing, Grazing, or the like: or however their case be, if by their Calling and Profession, they may have use of Servants of like quality, they may be compelled to take them. And if a wealthy man shall live so privately, that he keep few, or no Servants; & liveth so, that he needeth not a Servant, yet he may be compelled, either to take such an Apprentice himself, or contribute towards the placing of him with another. So others that cannot

nor tell what to do with a Servant, having no use for him, are to contribute towards the placing him Apprenice. And this Contribution may be by a Rate imposed and levyed upon him: and yet all these must continue their ordinary Rates to the Poor: All these things have been resolved by the Judges, 1633. *Quest.* 3, 4.

6. That if Parishes be not able to relieve their own Poor, and there be not men there fit to receive them Apprentices, others of other Parishes, within the same Hundred, may (by the Justices) be forced to receive them. And if there be not fit men in the Hundred, then they may go further, as in case of other provision for the Poor. For the Justices (at the Sessions) may compel any of any Parish, within the County, to take them. *Resol. Judges, 1633. Quest.* 5.

7. He that is thus bound, may be bound to a man, with respect to his ability, or with respect to his Farm. And, in the last place, it seems reasonable, that he go with the Farm, *Dalt. Just. p. 115.*

8. If any difference be between the Officers and the man that is to receive the Apprentice, about money; and what money to be given, or otherwise; the Justices thereabouts, or, in their default, the Sessions, must end it, *Resol. Judges, 1633. Quest. 2.*

9. If any shall refuse to take an Apprentice thus appointed to him, he is (by the Justices) to be bound over to the next Sessions, or Assizes; and, if he refuse it, they may send him to Gaol, till he enter into such Bond, *Res. J. 1633. Quest.*

7. And if he refuse at Sessions, he may be bound
to

to the Good Behaviour; and indicted, fined, and imprisoned for his Contempt, *Res. Judges*, 1633.

Quest. 7. And by the same, if the Parents refuse to let their Children go, being appointed; or entice them away, when settled; the Parents are to be sent to the House of Correction.

(10.) This binding must be by Indenture, and may not be well done by a Verbal Agreement: And the Indenture must be, either between the Justices, Church-Wardens, and Overseers: Or them, and the Apprentice, of the one part; and him that takes the Apprentice of the other part.

(11.) This binding is as effectual to all purposes, as if the Children were of full age, and did bind themselves by *Indentures* and *Covenants*.

(12.) That all such as are so bound, may be safely received by their Masters, by 3 *Car. 1. Chap. 4.* And they must be by them received, or they will be liable to punishment, *Resol. Judg.* 1633. *Quest. 2.*

10. They are to dispose the County-stock, appointed for this end, as the Justices shall appoint; and to give their account, from time to time, to them, upon 14 *Car. 2.*

11. They are to pay towards the Relief of maimed Souldiers, and the Orphans and Widows of such slain; what any two Justices (our of Sessions) shall order, upon 14 *Car. 2.* See Captains and Souldiers, *Chap. 22.*

12. These Overseers (as we have said) are not to take care of such as are able to live: And therefore, if any such person travail through a Parish with Children, and the Father dye, and leave

Treasurers for
Mariners and
maimed Souldiers.

Poor not to be
provided for.

leave them; in this Case, the Parish is not bound, but in Charity to relieve him. Nor of Rogues; nor of such as have, or may have, other helps from Parents, Children, Grand-Fathers, or Grand-Mothers. But untrill such help can be had (which must be by Order of the Sessions) they must be taken care of. See 7 Jac.

Chap. 4.

As to the Inhabitants of the Place, and the Poor themselves; what is to be done for their Relief, these things are to be known.

1. That no Inhabitant may give unto any Poor at the doors, but to the Poor of the same Parish, that have Licence from the Overseers of the Poor to beg there, under pain of 10 s. for every time they so do.

2. That the Inhabitants are to take the Children of poor people Apprentices, and to contribute towards their placing with others, as is appointed. See Sect. 7.

3. That if any Inhabitant find himself grieved with the Rate, or with any other thing done by the Justices out of Sessions, they may appeal to the Sessions for Relief.

4. That the Father and Grand-Father, Mother and Grand-Mother, Children and Grand-Children, of poor impotent persons, not able to work, being of ability, must help to relieve such poor persons, as the Justices, at their Sessions, shall appoint. But herein take this:

First, That if a man marry a Grandmother, that hath no estate, the Grand-Father in Law is not chargeable; but if she have an estate, caused without Marriage, or that comes after Marriage, by descent, or otherwise, to her; here he may

Inhabitants, and the Poor themselves; and what is to be done by them, or by others. By the Inhabitants.

Sect. 8.

may be charged. But where they have raised themselves to an estate, by their own industry, there it is doubtful. But in no case, shall he be charged longer then his Wife lives. *Resol. Judges, Mich. 7 Car. Gerards Case, and Drapers Case, Croo. 2. 346.* And in *Mich. 7 Car. B.R.* In the Case of *Reves, Croo. 2. Part 344.*

Secondly, That it seems a Bastard-child is not within the intention of this Law.

Thirdly, That no Justices can do any thing upon this Point, against a man that lives in another County. So that if the Justices of Middlesex, make an Order against one in another County, to relieve a Parish in Middlesex, the Order, and all the Proceeding thereupon, will be void. And yet, in this Case, the Justices of the County, where the Party dwells, may make an Order in it, and cause the money to be sent up, *Reve's Case, 7 Car. B.R.*

4thly, And if the Parents, &c. refuse to pay this, according to the Sessions Order, they forfeit twenty shillings a week: And this is to be levied by distress, and sale of Goods; as the Forfeitures, upon 43 *Eliz. Chap. 2.* And if they refuse to obey the Sessions Order, and there be no distress, the Party is to be committed, till it be paid.

And as to the Poor themselves, these things are to be known.

Sett. 9.
By the Poor,

1. The Poor themselves must work for their living, as they be able, if they may have work; if not, these Officers must help them to work,

2. If

2. If their Services be at an end, they must get them new Services.

3. And if they have houses, and their time in them be expired, they must get themselves new houses, *Resol. of the Judges for the Poor, Sect. 5.*

4. If Parents be able of body, and may have work; they, and not the Parish, must provide for their own Children: but if they be overburthened with Children, they may intreat from the Overseers of the Poor, help, by placing of some of their Children Apprentices. And so have the Judges resolved.

Parents for Children.

5. If Parents shall refuse to let their Children go, or shall hinder their placing, as Apprentices, by the Church-Wardens and Overseers, the Parents are to be sent to *Bridewell*.

That hinder the placing of their Children Apprentices.

6. No Poor may beg, but in their own Parish; and there also by Licence of the Overseers of the Poor, and not otherwise: Nor with their Licences, may they beg there in the Highways, *Resol. temp. 6 Eliz. Sect. 8.*

Not to beg.

And, as to others, besides the Parishioners, and the Poor themselves, these things are to be known:

1. That the Parents, within the 43 *Eliz.* that are to relieve their Children, are Father, and Grand-Father, and Mother. And Children, include Child, and Grand-child, *Resol. Judges, 1633. Sect. 3.*

By others, Parents to relieve their Children.

2. That where one Parish is not able to relieve its Poor, the next Parish may be forced to contribute to its help; and so to increase, and decrease its help, as the abilities of the Parish holpen,

holpen, and the number of Poor therein, increase or decrease, *Bulstr.* 1 Part 352.

And as to Souldiers and Mariners, these things are to be known.

Mariners, and
maimed Souldiers.

1. That Mariners and maimed Souldiers living, their Children and Orphans dead, are to go to the place where they were last settled, and get a Certificate of their Service and Wounds, and repair to the Justices of that County for relief, upon 14 *Car.* 2.

2. That Souldiers and Mariners where they land, must be sure to get the Testimonial of a Justice of Peace of their landing, shewing the time and place of their landing; and directing them whither they are to go, and in what time, and way; and then they must be sure to pursue this time and way, unless they be sick; or it will be dangerous to them, 39 *Eliz. chap.* 14, 17. For being well and able, if they wander about, and shall not fall to work, or go to their places or dwellings, they will be Felons.

3. That if they cannot work, the Hundred is to be rated for them; and, in their way home, one Justice may give them Licence to beg, upon 39 *Eliz. Chap.* 17. See Captains and Souldiers, *Chap.* 22.

Justices of Peace,
and what is to be
done by them,
herein.

Self, 9.
In the Sessions.

And for the Office of the Justice of Peace, about the Poor of all sorts, either within, or without their Sessions, these things are to be known.

1. That as to some things they may do only in their publique Sessions, and not elsewhere; and some things they may do out of the Sessions. As to what they are to do in the publique Sessions: As to the Poor, take these things.

1. That

1. That they must be sure, that the Orders they make there about the Poor, be according to Law; for if they be otherwise, upon Appeal and Motion in the *Kings-Bench*, they will be made void: and, in some Cases, the Judges of Assize do interpose herein. And therefore, where there is a power given to them, there to rate Parents to keep their Children, or the like; and the Justices of the Sessions, refer this to some of the Justices to be done out of the Sessions, the which is afterward done by those Justices, all this is void, *Steel's Rep.* 174. *Bulstr.* 1 Part, 342. So an Order, that a Woman Covert shall keep her Grand-Child, is nought; for it ought to be, that the Husband, or that the Husband and Wife together, should do it, *Steels Rep.* 154. So an Order to a Parish, to provide a house, or to give any person means to live on, who is not impotent, but able to work, or hath an estate, upon 43 *Eliz.* 2. *Bulstr.* 347. So if they make an Order, against one that lives out of the County; as in case of a Grand-Father, to contribute to a Grand-Child that is poor, or the like. But in this Case, the Justices of the County, where the Grand-Father lives, may order him, and send the money into the other County, *Bulstr.* 1 Part, 345. So where they order a second Reference, about a Bastard-Child: For neither the Justices in their Sessions, or the Judges of Assize, have to do with Bastard-Children; but in Case of Appeal, from the Order of the two Justices, to the next Sessions: for they can make but one Order, and no Sessions after can meddle with it, unless they vacate the first Order, and refer it again to the Justices, *Bulstr.* 1 Part, 342, 343.

Orders of Sessions, about the Poor; where good, or not.]

For Parents to relieve Children. *vid.* *Id.*, p. 264.

Bastard-child.

Settlement of a
poor body;
where, and how
it is to be done.

So where an Order is made for the Settlement of a poor person, otherwise then by Law it ought to be done. But, for the opening of this Point, about settlement of the Poor; and what the Justices are to do herein, in their Sessions, these things are to be known.

1. That this thing is wholly in the power of the Justices, and to be done in their publique Sessions onely, and not elsewhere, except it be in the case of Rogues.

2. That there is much in this left to the discretion of the Justices, according to the circumstances of the Case.

3. That none but the Poor and impotent, are thus to be ordered and settled, *Resol. of Judges at Hereford Assizes, 7 Car. 1.*

X 4. That the general Rule herein is, that for every one that is unsettled, but the Rogue, and Wife, and Children, he is to be sent to the place, where he was last duly settled. But this, in some special Cases, may be altered: and the Wife (generally) is to follow the Husband, and the Children the Parents: But this hath many exceptions; and he that is once duly settled, is not to be removed, but is there to be looked to.

5. The Justices are not herein to meddle with any Poor, but such as are impotent, and like to be chargeable to the place where they are. *Bulstr. 1 Part, 347.*

6. That a mistaken, or illegal Settlement, is no Settlement at all.

7. Then a Settlement shall be said to be illegal, when it is brought about by Practice, Composition, or Agreement: as when one Parish

Illegal Settlement.

By practice.

rish shall procure a poor person amongst them to beg, to the end, they may send him to the place of his Birth; or hire a man born in *A.* but settled with them in that Parish, to go and wander in *D.* and beg, that he may be sent to *A.* and he do so; this is not a good Settlement in *A.* and he may be sent again to the Parish from which he came.

2. When it is brought about by Compulsion: By compulsion. As where one born in *A.* is settled in *B.* and this Parish shall thrust him, and keep him out of a house, and he can have no work; and so is forced to beg, that he may live; and is taken begging at *D.* and thereupon sent to *A.* or if he be settled by order in *A.* upon this Case.

3. When the Settlement is obscure; Obscure. That the party said to be settled, comes into, and is in a place obscurely, and incertainly, now and then in a skulking way, or in a Barn, &c. As if a man come there now and then, and lye in a Barn, or Out-house, obscurely and incertainly.

4. When it is interrupted and unquiet, by Interrupted. complaint to Justices, or by their Warrants, or by Warning the party to depart, or the like. And therefore, if a man be of able body to work, or hath means of his own, and doth pay his Rent, and live of himself, without looking for any thing, or help from the place, the Justices have not to do with him in this. And if they make an Order against the Parish, about Settlement, this will not bind, but it is void; *Bulstr.* 2 Part, 248. See the New Act of 14 Car. 2.

R 2

5. Where

5. Where the Settlement is mistaken : As where a Rogue is taken, and examined ; and saith, his Birth is at *D.* and it cannot otherwise appear ; but he confesseth truly his last place of Habitation was at *S.* whereupon he is whipped, and sent to *S.* ; and there it is known the place of his Birth was at *W.* and he doth confess it ; in this case, he shall be sent to *W.*

Transient, and
not fixed.

6. When the party is not fixed, but transient, in the place : As where one doth onely travail through a place, or lodgeth in an Inne there, or is an Inmate, or Guest onely, for two or three days together, or gets into an obscure place for a little time onely. And when it is but for a little time, and for a special purpose onely ; as the Child at Nurse with its Mother, or with another ; or a Scholar at School, or in the University ; or one that keeps a Stall in a Market. See for these things, *Resolution of the Judges*, in 1633. *Sect.* 33.

Sect. 10.
Whotied, and
where, and how
the Poor are to
be ordered
therein,

7. To make a good Settlement therefore by Residence and Habitation : the party to be settled, must be either a Native, born there ; or if born elsewhere, he must be either a Housholder, Sojourner, Apprentice, or Servant for a Moneth, or more, at one time certain, and this openly, and peaceably, without complaint to remove him, *Resol. of Judges*, in 1633. *Sect.* 25.

8. That the place of Birth, or last Habitation (if the same may be known) are (in Judgment of Law) said to be, the place of Setling :

so that if one be born in one Parish, and he is afterwards an Inhabitant in Service in another Parish, and after this he becomes a Wanderer; in this case, he is to be sent to the last place of his settling to be provided for, *Bulfr. 1 Part, 252.*

9. To make a Settlement by Remove, without an Order of Sessions; so no man but a Vagrant, may be sent out of any Parish, by the Parish, to the place of his Birth or last Habitation: For if he there refuse to work, or to work for the Wages appointed, he is to be sent to *Bridewell*, and not to any other place, unless he have means to live by, without his work, *Cook 2 Part, Inst. 720. Resol. Judges, 1633. Sect. 4.*

10. That the Justices have not to do with any herein, but with poor men, that may probably be chargeable to the Parish in which they are. And for this, it is by the new Act of 14 *Car. 2.* provided; First, That if any Stranger come to a Parish, to settle there in a Tenement, under the value of 10 *li.* a year, and he refuse to give such Security, for the discharge of the Parish, as two Justices shall think fit, any two Justices (*quorum unus*) may by their Warrant, at the complaint of the Parish, send him to the place, where he was last legally settled, either as a Native, Householder, Sojourner, Apprentice, or Servant, by the space of 40 days. And by this, it seems to be the opinion of this Parliament: that no man that rents any thing of 10 *li.* a year, or above, is to be accounted such a poor man, as to be removed by the Order of the Justices of

Peace. Secondly, That the man that is 40 days, or more, in any place, settled as a Native, Householder, Sojourner, Apprentice, or Servant, is legally settled, and may not be removed. And for the first Point, in a Case at *Hereford* Assizes, 7 *Car.* 1. it was thus; *Philip Wind* had an estate, and Family, and was able to work, and lived in *A.* four years, in a rented house, and paid his Rent, and was turned out of it; and then they came to *B.* and rented a house there, and paid their Rent; upon the complaint of the Parish of *B.* to the Justices, out of Sessions, they ordered his Landlord in *B.* to discharge him at the end of the year, unless he would give Bond to save the Parish harmless; which his Landlord did: *Wind* complained to the Justices at Sessions, against the Parish of *B.* that they should provide a house for him there for his Rent; or that the Overseers for the Poor should provide for him. It was by the Judge resolved, That all these Orders made by the Justices, in, and out of Sessions, were void; for he was neither a poor nor impotent person, to be provided, by 43 *Eliz.* And the Justices of Peace have no such power given to them by Law, to make such Orders; but he said, *Wind* was to provide for himself where he pleased, and that he might go to which of the Parishes he pleased.

11. That he that comes with a Certificate from the Minister, one of the Church-Wardens, and one of the Overseers, that he hath a Habitation and Family in another Parish, and comes to work at Harvest onely, and returns when he hath done, is not to be accounted such a one, as to be ordered to remove by the Justices;

ces; nor shall this make any Settlement; nor if he shall be sick or impotent there, but any two Justices may send him to his Habitation, where the Overseers must receive him, by the same new Act of 14 Car. 2. Two Justices.

12. That if any one be removed out of place, that ought to stay there, he or they forfeit 5 l. that had a hand in it.

13. It is to be enquired, when a person shall be said to be likely to be chargeable to a Parish, and so to be removed and settled by the Justices. And it seems, for this, to be left to the Justices discretion, upon examination of the whole matter, with the Circumstances, &c. And yet see *Philip Wind's Case at Hereford Assizes, 7 Car. 1. Bulstr. 2 Part, 348.* That where the Justices at Sessions, shall order a Parish, to provide a house for the Rent, or provide means to live for one able to work, that lives well, and pays his Rent, and the like; that this Order is void, and the Parish not bound to obey it.

14. That where a Rogue, or other such like person, is sent by Justices, to be settled in a Parish, he is to be tendered to the Church-Wardens and Overseers of the Poor of the place; or the Officer be punished, for not tendering him so: and they are then to receive him, or be liable to punishment on either side, *Resol. of the Judges, temp. Q. Eliz. Sect. 10.*

15. That all persons, thus ordered to be disposed of by the Justices, as in the case of Rogues, and the like, are to submit, and conform; for if the Officers be negligent, or the Parties themselves ordered; or others shall disturb the work

by Rescue, or shifting away of the person to be removed, or otherwise, he is punishable; if it be in the case of a Rogue, he forfeits 5 li. and, in other Cases, he may be indicted, and fined for it. *Resolution of the Judges, temp. Q. Elizabeth.*

16. That where a Parish doth extend into several Countie, or Liberties, there the Justices, or Head-Officers, shall onely intermeddle within their respective Limits: But the Church-Wardens and Overseers, shall have mixt Jurisdiction, and shall render account, according to the Laws, to the Justices, or Head-Officers, in both places, by 43 *Eliz. Chap. 2.*

For the further opening of the Point of Settlement; and who is to be sent and settled as a poor person; and whither he is to be sent; take these Cases.

Sett. II.

Where a poor person to be settled, shall be settled; and on what place, or person, the charge of relief of such a person shall lye.

(1) That a person visibly impotent, and already chargeable to the place, must needs be taken for one like to be chargeable to a place. But in other Cases (it seems) the Justices are to judge who are like to be chargeable, and to be removed and settled.

Of a Scholars,
Parents.

(2) If a Scholar in the University, or in a Grammar-School, begin to be suspect, he may be, or, if he do become impotent, and is like to be a charge to the Parish where he is, he must be sent to, and settled with his Parents, if he have any. Otherwise, to the place where he was last settled, before he came to School. *Resol. of the Judges, 1633. Sett. 31.*

(3) If

(3) If one be born and live 20. years in *A.* and go to *B.* and there live in a House and pay Rent, and after he comes to *C.* and there works 20. weeks, as a Labourer in a Quarry of Stones, where he breaks his back, and becomes impotent, and there is taken vagrant and begging; In this case he is to be sent to *A.* the place of his Birth, and there must be provided for. *Resol. Judges 14 Car. 1.*

(4) If a man that hath a Wife and Children, take a House in one Parish for a year; and during this time he is illegally forced out of the possession. And then he takes a House as an Inmate in another Parish, out of which he is put, in two or three days; And then not having any place to be in, he gets into a Barn in the third place, and there his Wife is delivered of another child; In this case they are all to be sent to the Parish out of which they were first forced. *Resol. Judges 1633. Sect. 24.*

Of one that is not a Vagrant.

Of a Child.

(5) It is said, That if a man hath a Wife that hath a House in one Parish, and is settled there as an Inmate, and the Husband be unsettled in another place; that he shall be sent to his Wife. But this must be warily taken.

(6) If one be born in *D.* and left that place 20 years since, and lived in *S.* there took a House and payd Rent, and hath left that place 6. or 7. years since; and came to *L.* in another County, and there was 20. weeks, did work, and there became impotent, and did wander and beg in the same place; In this case, if he be taken up as a Vagrant, he is to be passed, and settled at *D.* where he was born, by the Judges at

Sect. 12.

Of one that is a Vagrant or Rogue.

Wor-

Worcester Affizes. 14 Car. 1. Bulstr. 1. part, 357.

(7) If a Child of Parents lately dead, become vagrant, and be above 7. years old, this Child must go to the place of its Birth. So where the Parents are run away. But if a Vagrant under 7. years old, be settled with the Father or the Mother, when one of them is dead where he or she is born, or dwells, and the Vagrant is come to 7. years of age, and then the Parents dye, or run away: In this case, the vagrant must continue there, and not be sent to the place of its Birth. So the Vagrant under seven years old, is to be with the Father, and when he is dead, with the Mother where she was born, or dwelt. And if he will not tell where he was born, or last dwelt; or, say he was born in such a Town, and when it is examined, it is found not true. In this case he is to be sent to the House of Correction there in the County where he is, and for lack of such a House, to the Common Gaol. *Resol. of Judges, temp. Eliz. Sect. 4. 13.*

(8) If the Husband and Wife rogue about in *A.* and he hath a House in *B.* they are to be sent to *B.* And so, albeit he be but an Inmate there. *Resol. of Judges, temp. Eliz. Sect. 16.*

(9) If Children that have been at nurse, stay till 7. years, and then turn Vagrant, they are to be sent to the place of Birth.

(10) If a Rogue be taken at *C.* and will not confess the place of his Birth, neither doth it appear otherwise, but that he confesseth the last place of his Habitation to be at *S.* hereupon he is whipt and sent to *S.* and there the place of his Birth

Birth is known to be at *W*. which he confesseth, in this case he is to be sent to *W*. *Resol. Judges 1633.*

(11) The Wife and Children of the Rogue, generally is to be setled with him. And if the Wife become vagrant, she is to be sent to her Husband. And if the Rogue have Children above 7. years old, that rogue about with him or her, they must be sent to *Bridewell* with the Rogue, if he or she go hither. And when he, or she, go out of *Bridewell*, they are to be sent to their severall places of Birth. And if a Woman be delivered of a base child in one Parish, and then turn vagrant, and is sent to the place of her Birth: In this case, the child under 7. years old, is to be sent to its place of Birth, and not to be with the Mother. *Resol. Judges. temp. Eliz.*

Of the children of a Vagrant or Rogue.

(12) If it be a Woman-rogue, and she have a child at nurses that child must remain with her in *Bridewell*, while she is there. And when the child is out of that condition, and till 7. years of age. And then it is to be passed with the Parents whither they are to go. And if the Parents Birth or dwelling place cannot be known, then must they be passed with the Parents, to the place where they last past through without punishment, there to be relieved by the labour of their Parents in *Bridewell*. *Resol. Judges. temp. Eliz. Sect. 7. 13.*

Sect. 13.

Child at Nurse.

(13) If a Rogue, whose place of Birth, or last dwelling, cannot be known, hath children under 7. years old, they must go with the Father to the place where they were last suffered wilfully to passe through unpunished, where they must be relieved

relieved by the work of the Parents, albeit they be in the House of Correction. *Resol. Judges. temp. Q. Eliz. Sect. 2. 13.* So that the children of the vagrant under 7. years old, must be with the Father. And the vagrant children above 7. years old, must be sent to their place of Birth. And if then the vagrant Parents with their children under 7. years old, be placed at the place of the Birth of the Parents, or at the place of their last dwelling, as the case falls out to be. If afterwards the Parents, or either of them dye, or run away, yet the children once settled, must remain still in that place, and may not when they grow, be sent to their place of Birth. *Resol. of the Judges.* And if children above 7. years old be taken begging with the Parents, they may go to *Bridewell* with them; if under 7. years old they are to be passed with the Parents; and if the Parents Birth or dwelling cannot be known, they must go to the place they last past through without punishment, and there be relieved by the labour of their Parents in *Bridewell*. *Resol. of Judges. 6 Eliz. 1. 13.*

Sect. 15.
Of the Wife of
a Vagrant or
Rogue.

Wife a Vagrant.

(14) If the Wife of a Vagrant be to be settled, she is to be settled with her Husband, especially if they be taken roguing together. And yet if she be no Rogue, it seems she is rather to be sent to the place of her last settlement, whiles her Husband is in *Bridewell*. And then she is to be settled where he is settled, and to be disposed as he is disposed of. And if the Wife alone be a Vagrant, and taken up, and whipped, and she hath a Husband in another place, being there in a House as an Inmate, or out of a house as a Servant, she must be sent to her Husband. And yet

yet it seems by the words of the Statute, she is first to be sent to the place of her birth, by 39 Eliz. See *Resol. of Judges. 6 Eliz. Sect. 15.*

(15) If a Rogue have a Wife, and will not be known where he last dwelt, or settled: In this case, his Wife shall be sent with him to the place, through which he was suffered last to passe through unpunished, where she is to work if she be able. *Resol. Judges, temp. Eliz. Sect. 2. 13.* But otherwise the Wife must be with her Husband; and if he be dead, she must go to the place where he was born, or last dwelt. *Resol. of Judges.*

Of children that are not vagrants with Parents.

The Wife of a Rogue, if she be roguing with her Husband, must be disposed as her Husband is disposed. But if she be no Rogue, she is to be sent to the place of her last settlement, whiles her Husband is in *Bridewell*, and then she is to be settled with him.

(16) For the settlement of Children not vagrants, take these Cases.

1. That the Children (for the most part) are to be sent to, and settled with, their Parents whiles they live, especially if they be able to work, and help them by their labour, which they must do; and if the Parents be able to work, they may not suffer their Children to be chargeable to any Parish. *Resol. of Judges. temp. Eliz. Sect. 1.*

2. That nursing children are to be (for the most part) with the Mother.

3. That where ever a Woman with child is to be settled, put this case, If she die, her child is to be settled in that place. And yet if a Woman with child be sent to *Bridewell*, and there be delivered, the child shall be sent to the Parish from which

which the Mother was sent. By the Judges.
14 *Car. Bulstr.* 1 Part 358.

4. That where the Parents dye, there the children that are there duly settled at the time of their Parents death, may not (as it seems) be moved to their place of birth, or last habitation; but are there to be set on work, or relieved by the Town, where they were at their Parents death. *Fleming* chief Justice. *M. Dalton*, 75.

5. At an Assizes 9 July. 8. *Car.* It was observed by the Judges, That the child regularly is to be kept where it is born, if no practice be in the case to have it born there; but if so, then it is to be kept by the Parish where she did dwell and the practise was, and where she was got with child. As if a Servant mayd dwell in *T.* and is got with child there, and being near her time, conveyed by practice into an out house in *T.* where it is born; *T.* relieves her for two years after, she being sick, is sent to *L.* with her child, where the Mother dieth, the child is sent to *L.* *L.* sends it to *T.* In this case it was ordered, that the Parish of *T.* shall keep it.

6. That children at nurse with the Mother, or another, that are like to be chargeable to the place, are to be sent to their Parents, if they have any; if not, to the place of their last settlement, or birth, in case of Vagrancy.

7. If I live in *A.* in a house there with my children; but I work in *B.* where I am hired by the year; In this case, my children shall be in *A.* But if I take a house in *B.* they shall be placed there.

8. That

8. That if a travelling Woman be taken with her child, and sent to Gaol for Felony, and hanged, the child shall not be chargeable to the place where the Gaol is, but to the place where it is born (if it can be found) otherwise to the place where the Mother was apprehended, *per Sir Nicholas Hide. 3 Car. 2.*

9. That if a child be duly settled with Father or Mother, and they die, or run away thence, it must there continue, and may not be sent to the place of its birth. As if a Vagrant under seven years old, be settled with the Father, and he be dead, or with the Mother, where she was born or dwelt, and he come to above 7. years, and the Parents run away, or die, it is not to be sent to the place of birth. *Resol. of Judges 13.*

10. If Parents of Children that are Rogues, passe through a Town, and there dye, or run away, and leave their children; the Town is not to take care of them; but if they become vagrant, the Town may send them to their place of birth. *Resol. of Judges. temp. Eliz. Sect. 5.*

11. *A.* with a young child under seven years old, is going with a Passe to *Dale*, where the child is born, and dieth in the way. *A.* being a wanderer with 3. children born in 3. Parishes, comes to *Dale* with them to her Sister, and there dieth; In these Cases the children must be settled in the several Parishes where they are born, and not in the Parish where the Mother died. *Bulstr. 2. Part 351.* And they are so to be sent, as poor to be provided for by them, and not as Rogues, or Vagabonds to be corrected. *Resol. of the Judges at Worcestre. - Assizes. 5 Car.*

1.

12. If

12. If children unsetled have no Parents, being dead, or not to be found, they must go to the place of their last settlement, unless they become Vagrants, then to the place of their birth, if above 7. years old; but otherwise, young children, whose Parents are dead, and were settled, they are there to be settled where they are, and their Parents dwelt when they died. And if in this place they attain to 7. years old, or become vagrant, yet may they not (as it seems) be sent to the place of their birth.

Sect. 16.
Of a Bastard-child, and the Mother of it.

13. If a Woman have a Bastard-child in one Parish, and after go into another Parish with it, or become vagrant, and is sent to the place of her birth: In this Case, if the Mother, and reputed Father be poor, the child as long as it is nursing, must be with the Mother; but afterwards, it must be sent to the place where it was born. *Judges. Resol. 1633, Sect. 22.*

14. If a Woman unmarried, be hired weekly, monethly, half-yearly, or yearly, in one Parish, and there be gotten with child, and then goeth into another Parish, and there is settled in service, or otherwise 2. or 3. moneths, and then discovered to be with child: In this Case, she and her child shall be settled in the Parish where she is, and not in the Parish from whence she came. *Resol. of Judges. 1633. Sect. 12.*

15. If a Mayd-servant be gotten with child by her fellow-servant, or another of the same Town of *A.* and after the time of both their services ended they marry, and then the man is retained in *B.* but the Woman is delivered of her child in *A.* In this Case, the Mother and child is to be settled with the Father in *B.*

16. If

If a Woman be delivered of a base child in one Parish, and then go into another Parish with her child; In this case, the child after it is nursed, is to be sent to, and settled in the place of its byrth, and not to remain with the Mother.

Resol. of Judges 1633. Sect. 21. If a Woman have a Bastard child, and she take a Husband; it is said, he is not bound to keep the child, unless he have an Estate by the Wife, but that the place where it is settled, must keep it. Quære of this; for if Parents comprehend Grandfather and Grandmother, upon 43 *Eliz.* then why not Parents in law, as well as Parents in nature.

17. If A. have a bastard child by B. born in *Dale* 10 years since, the reputed Father marrieth another Woman, and they breed it 10 years in the Parish of *Sale*, the Mother of the child is in service all this while, and is a simple Woman, the reputed Father dieth; In this case, the child is to be sent to the Mother first, to be maintained by her if she be able; if not, it must be sent to the Parish of *Sale*, where it was settled with the Father 10 years: *Bulstr. 2. 350. Judges 7. Car. 1.*

18. If a Servant-mayd be with child in *Dale*, and she being near the time of her delivery, is by practise conveyed into an our house, in the remote unknown parts of another Parish, and there brought a bed, the child christned in *Dale*, and there she is relieved two years: the Mother falling sick, is by them of the Parish sent to L. where she died with the child, the child is sent to *Dale*, and by this place to the other place where it was born: In this case, the

child shall be sent to *Dale*, because of the practise, otherwise to the place where it was born. *Bulstr.* 1. part 349.

19. If a Woman have a Bastard child, that is like to be chargeable to a Parish, and she be sent to the house of correction for it (as she may be) It is made a question, whether the child shall go with the Mother, or remain in the Town where it was born, and there be relieved by the Mothers work, or by the reputed Father, upon 18 *Eliz.* And it seems most reasonable to be so. But the common practise is otherwise. 18 *Eliz.* Chap. 3. And at *Worcester Affizes.* 14 *Car.* 1. It was resolved by the Judges in the case between two Villages, That if one gre t with child, be sent to the house of Correction, and there be delivered, that the child must be sent back to the Parish, there to be provided for.

20. If one be delivered of a Bastard child in one Parish, and then she goeth into another Parish, there she becomes vagrant, and is sent to the place of her byrth. In this case, the bastard child, whiles it is a nursing child, and unill it be seven years old, shall be settled with the Mother. And after, in case the reputed Father and Mother be poor, it shall be sen to it's place of birth. *Resol. Judges* 1633. *Temp. Eliz.* Sect. 21. See more, *Cro.* 1. 154. 248. 255. 338.

Of a Wife,
after her
Husbands
death.

31. The Wife, is in most cases, to be settled with the Husband, though he be but an Inmate, or Servant, in the place where he is; and much more, if he have a house there. And if the husband happen to die she must be then sent to the place of her birth; if she came from thence

thence to this place ; otherwise, to the place of her last habitation. And so in every case after her husbands death, she is removeable, according to her case. *Resol. Judges 1633. Sect.*

13.

If the husband have a house in A. and there he is by night ; but is a Covenant-Servant to a Master in B. and there he is all the day ; In this case, his Wife is to continue in A. But if the husband take a house in B. she shall be settled in B. with her husband.

If the husband be dead, and the Wife turn vagrant, she is to be punished, and then sent to the place of her birth ; but if she be none, to the place of her last settlement.

If a Man and mayd-servant marry together in A. and the man is retained in B. in service, and there settled ; In this case, she is to be sent to her husband in B. and not to stay in A.

If a Nurse-child, a Scholar at a Grammar-School, or the University, or a Person sent to a common Goal, Hospital, or house of Correction, fall impotent by lameness, sickness, Lunacy, or the like ; they are, to be sent to their Parents, and not to be esteemed as settled there, no more then a Travailer in an Inn. And children that are born in common Goals and houses of correction, their Parents being prisoners, are to be maintained at the common charge of the County. *Resol. Judges 1633. Quest. 32*

Of a Nurse-child, Scholars &c.

That a Servant, or an Apprentice, in that condition, as such a one, is said to be settled ; and therefore being out of his time, he is not to be removed, but there to continue.

Of a Servant or an Apprentice.

Executors.

Master put a-
way servant.

If he be able to work, he must help himself to House, Service, &c. But if he be impotent, he must be relieved by the Parish. But if the Master of such an Apprentice, as is put Apprentice by the Church-Wardens and Overseers die within the time of his Servants service; in this case (perhaps) the Executors of the Master may be forced to provide for him till his time be out. But afterwards he must come upon the Parish. *Resol. of Judges, 1633. Sect. 25.* And if a Woman with Child procure her self to be retained with her Master, who knoweth nothing of it; this, it seems, may be cause sufficient to be quit of her. But if she be begotten with Child, during his service, it seems to be otherwise. But in neither case, may the Master, of his own authority, put away his Servant, without the help of the Justices. And so if he be quit of her within the term, or her term be ended, she must then fall upon the Parish, and be there settled. *Resol. of Judges, 1633. Sect. 20.* If a Woman-Servant unmarried be gotten with Child, and then is lawfully quit of her Masters service before, or after it is discovered she is with Child, and the reputed Father is run away or impotent; in this case the Parish, and not the Master, must take care of her. But if the putting of her away be within the time, and without any order of the Justices, in this case the Master may (perhaps) be chargeable with her during the time. *Resolution of the Judges, 1633.*

Bath and Bax-
ton.

21. That such as come to Bath, or Baxton, for the cure of their Diseases, and stay there, are not

not by this account settled there, by 39 *Eliz.*
Chap. 4.

22. That where a Souldier or Mariner, that ^{Of a Souldier,} hath been in the King's Service by Land, or by ^{or Mariner.} Sea, is become impotent, he is (as it seems) to be settled, where he was settled, when he took up Arms for the King, or went first into the King's Service.

23. No man is to be put out of the Town where he dwells, nor to be sent to his place of Birth, or last Habitation, but a Vagrant; nor are they there to be relieved, except they be impotent.

24. If any persons within a Parish, shall take upon them otherwise, to dispose of their Poor, than according to these Rules; they may be punished for it, and are in danger of the 5 *l.* forfeiture, in 39 *Eliz. Chap. 4.* And a poor person that is usually sent from one Parish to another, may be sent back again to the place from whence he came. And if the Justices themselves shall settle a poor person, or Vagrant, &c. otherwise than after these Rules, this settlement will be naught, and the Kings-Bench will alter it. And the man that is thus settled by the Justices, after the Rules before laid down, he is not to be moved again. But there he must abide, and provide for himself if he be able: if not, he must be provided for by the Parish. And if any disturbance be to any Settlement, by order of the Justices; as if any Constable refuse to receive and convey a Rogue, where he ought to do it; or any Church-Wardens and Overseers of the Poor shall refuse such a one as is duly
S 3 sent,

sent, and to be settled there; he may forfeit 5 l. by 39 *Elix. Chap. 4.*

About Appren-
tices

2. The Justices are in their Sessions to order the matters of difference about Apprentices; And here the Refusers to take Apprentices, are to be bound to the Good Behaviour, Indicted, Fined, and Imprisoned for their Refusal, to take their Apprentices assigned to them. *Resol. Judges, 1633. Quest. 7.*

Order the keep-
ing of a Ba-
stard-Child.

3. Here also, they take order for the securing of a Parish from a Bastard-childs charge, upon an Appeal of the party charged by the two Justices Order, upon 18 *Elix. Chap. 3.* Wherein take these things;

1. It seems the Justices may not in the Sessions make a new, or another Order, or commit to Prison, for not obeying of the old, or their new Order. But that they have to do, is, to vacate, or affirm the Order of the two Justices, *Hamond's Case, Mich. 3. Jac. B. R. 6 Car. Mich. B. R. Smith's Case.*

2. If the first Order be made in the Sessions, it is altogether illegal and void, *Stile's Rep. 475.*

3. The Justices may not here make Order upon Order: But they are at the next Quarter-Sessions, after the Order made by the two Justices, to make an end of this Order, by the allowing, or disallowing of it: If disallowed, have referred it to the same Justices, to have considered it again. So resolved by the Judges in *Smith's Case, B. R.* And there resolved, That after an Appeal to Session, if the Justices repeal the Order of the two Justices, the matter

is as *res integra* before them ; and they may then refer it again to the next Justices.

2. That they refer it again, before they have allowed, or disallowed the first order. *Smiths Case. Resol. Judges. Mich. 6. Car. B. R.*

3. That neither the Judges at their Assizes, nor Justices in their Sessions, have power to meddle with Bastard children, but upon an appeal and settling, but it is to be done by the two next Justices. *Pasc. 8. Car. B. R. Bomber and Panter.*

4. It was resolved That the first Order made in Sessions upon appeal is binding, and all after-Orders are voyd, and no appeal can be from the Sessions order, neither can it be altered by the Judges. So resolved by the Judges. *Banco Regis. Resolved, That where another was made. &c. Croo. 1. part 255 Bullstr. 1. part 357. Stile. Rev. 475.*

4 In the Quarter-Sessions also, the Justices About Rates. may impose a Rate upon certain persons within the whole County, or upon one or more persons of another Parish in the County, to contribute to the help of the poor of another Parish, not able to bear the charges of their poor themselves, but they may not rate Hundreds or Parishes entirely. And this is to be levied in the same manner, and under the same penalties as the money rated within the Parish is levied, by 43 *Eliz. 14. Car. 2.*

5. There also the Justices may rate the Parents, grand Parents, or children of such as are *Sect. 18.* poor towards their relief, where they see cause. The which rate they must pay, or forfeit 20 s. a month; the which money, they may give war-

rant to the Church-wardens and Overseers, to levie by distress and sale of goods. And, in default of distress, send the party to prison till he pay it. *Sed quare*, If this may be done by one Warrant, and how the Justices shall take notice of lack of distress, but by Indictment, upon 43 *Eliz.* chap. 2. But herein take these things.

1. That a man is not to be charged for his Wife's Grand-mother, but in case where she brings him a good estate by the marriage. And if the case be so, that he hath nothing with her, but they have gotten an estate by their industry, after many years, he is not to be charged. *Bulstr.*

2. part 345.

2. That if the child to be relieved be a Bastard child, this is not within 43 *Eliz.* to be so relieved.

3. If he have no estate by her in marriage, but after some good estate comes to her, as land by descent, or the like; in this case, it seems the Grandfather is to contribute. Yet the Judges were divided herein. *Bulstr.* 4. part 245, 246, 247.

4. But the Sessions may not, as it seems, send the child to the Grandfather, or Grandmother to be kept: but it may set a Rate onely. *Bulstr.* 2. part 245, 246. 247.

Pensions.

5. Here also in the Sessions, the Justices are to make allowance of Pensions to Souldiers and Marriners, not above 10 l. to a common Souldier, not above 15 l. to an Officer under a Lieutenant, not above 20 l. to a Lieutenant. And where a fit pension cannot be allowed out of the County where the party was prest, it shall

shall be supplied by the Countie where he was born, or last dwelt for 3. years. 43 Eliz. 3.

6. Here the Justices are to dispose the Surplusage money of the Rate for Marriners, maimed Souldiers, and likewise the forfeitures upon 23 Eliz. 3. upon charitable uses, according to their discretion.

7. There they may levie 5 l. by their Order upon the Justices of a division, or Officers of a Corporation, wherein the Overseers of the poor shall not be chosen according to the Statute of 43 Eliz. 2. chap. 2. This to be levied by the Sessions Order, and to be employed to the use of the poor of that Parish. And to this use, are all the forfeitures upon that Statute to be employed, by 43 Eliz. chap. 2.

Forfeitures
how to be im-
ployed.

8. Here also they are to rectifie the Parish or Hundred Rates about the poor. And their order thereof in the Sessions, will be concluding to all parties, by 43 Eliz. chap. 2. Resol. Judges. 1633. Quest. 18.

About Rates
rectifying.

9. Here they are to give order for the erecting of Cottages for the poor to dwell in upon any Wast, and the lodging of Inmares therein. And so it may be done without the Lord of the Mannors consent, and no breach of the Law of 31 Eliz. chap. 7.

Erecting a
Cottage for
the poor.

Here they may at every Easter Sessions (as they see cause) rate every Parish of the County weekly, no Parish above 6 d. nor lesse then a half penny, one with another, the whole County or Corporation, not above 2 d. a Parish, for relief of Prisoners in the Goal, upon 43 Eliz. chap. 2. And this Rate. And such so rated, the

Set a part upon
the County.

x 17 EL. 5.

For prisoners
in the Goal.

Con-

Constables.
Church-
wardens.
One Justice
out of Sessions.
Rate for the
Kings Bench,
and Marshalse.
County Treas-
urers.

Constables and Churchwardens of every Parish, or, in their default, any one Justice of Peace may *ex officio*, distribute in the Parishes, and then may levie by distress, sale of goods: in default of distress, any one may commit the party to prison till it be payd, upon 43 *Eliz.* chap. 2.

Here also they must then rate the County towards the Kings Bench, and relief of the Marshalsey, and also of Hospitall, and Alms-houses; so that the Kings Bench and Marshalsey, may have each of them at least 20 s. a year a piece. And this same so rated also, the Constables and Churchwardens may, *ex officio*, distribute by Rate, and levie upon the Parish, as before in the other Rate; and having levied it, they are to pay it quarterly to the High Constable of that Division, 10 dayes before every Quarter-Sessions. And the High Constables are at the Sessions under pain of 10 s. to pay it to one of the Treasurers of the County Stock, which the Justices are here to chuse every year of the sufficient men of the County: which Treasurers, are yearly at Easter Sessions, to give in an Account, and to pay to their Successors the money in their hands to them. And the money in the Kings Bench and Marshalsey, is to be payd to the Lord Chief Justice of the Kings Bench, and the Knight-Marshall, by equall portions, under pain of 20 s. And these forfeitures are to be levied and imployed by these Treasurers. And besides, the Treasurer that refuseth to execute his Office, or to distribute the money or account, as the Justices shall here order him, may be fined 3 l. or above, which Fine may be levied by sale of his goods, by the prosecution of any

two of the Justices authorized 'by the rest of them, upon 43 *Eliz.* chap. 2.

11. They are as formerly to rate the County for relief of maimed Souldiers and Marriners living, and their Children and Orphans dead, by 43 *Eliz.* chap. 3. and 14 *Car.* 2. And to appoint Treasurers to distribute the money. And every Parish is to be rated so much more. And the Justices in their Sessions, may rate the County as they think fit, not lesse then 3 d. nor more then 2 s. a week on a Parish for the year. And at the Quarter-Sessions, they may settle what Pensions they think fit, not above 20 l. to one man, upon any maimed poor Souldiers or Marriners of the Kings, or upon the Widow or Orphans of such poor Souldiers, by 14 *Car.* 2.

12. They are here to dispose of the County Stock, to charitable uses, according to their discretion, upon 43 *Eliz.* chap. 2.

13. Here also, they are to order the Settlement of one that is a stranger, newly come into a Parish, that is ordered by two Justices to be sent to another place, upon the parties appeal to the Sessions, 14 *Car.* 2.

14. Here also they may order a Parish to find a house, or give relief to a poor impotent person. But if he be not such a person as needeth relief; the Parish may refuse it. *Bulstr.* 2. part 348.

15. The Justices are here to order matters about the settlement of the children of poor people Apprentices, and of any differences that shall arise about it. And here they may bind to the good behaviour, or indict and fine for contempt, such as shall refuse to take an Apprentice

Mayors, &c.
Corporate
places.

prentice placed to them, or to contribute towards their placing.

The Officers in Corporate Towns, and Aldermen in *London*, have in their several Precincts, like authority that the Justices have in their Counties; the Justices whereof, are not to intermeddle in Corporations, for the execution of 43 *Eliz.* chap. 2.

And so much of the Justices power in the Sessions.

What the Justice hath
to do out of
the Sessions
in these things.

And as to what the Justice of Peace hath to do out of Sessions, these things are to be known:

1. That if a stranger come to work at Harvest only, and bring such a Certificate as by the Act of 14 *Car.* 2. is provided, and he fall sick or impotent, any two Justices may send to the place from whence he came; and if he refuse to go thither, or shall of himself return whence he came, any Justice there may send him to the house of Correction to work, and to be dealt with as a Vagrant: And if the Church-wardens and Overseers of the place to which he is sent, shall refuse him, or to provide for him as for the rest of the Poor of the place, any one Justice of that County may send for them, and bind them to the Assizes or Sessions, there to answer for their Contempt, 14 *Car.* 2.

17. That any two Justices may upon complaint by the Church-wardens and Overseers, within 40 dayes after any Stranger is come in to the place, and settled in any thing under 10 l. a year, by their Warrant send him to the place where he was last legally settled as a Native, Householder, Sojourner, Apprentice, or
Servant,

Servant, 40 dayes or more; unless he shall give such Security to save the Parish harmless, as the Justices shall judge sufficient. And this any two Justices, *Quo. nunc*, may do, upon 14 Car. 2. But if he find himself agrieved with what the two Justices have done, he may appeal to the Justices in the Quarter-Sessions; but it must be at the next Sessions, or it is too late.

Appeal.

3. That we must here, by the way, warn Justices, That as to the 5 l. Forfeiture upon the Rates of Prisoners in the Gaol, upon 14 Eliz. The 10 s. forfeiture by the Church-wardens, and 20 s. by the High Constable about the Kings-Bench and Marshalsee money, the Fine to be set on the Treasurer for his default; The 20 s. to be set on the Overseers of the poor for their neglect about the Kings Bench and Marshalsee money, upon 43 Eliz. The 20 s. upon the Church-wardens and petty Constables, and 40 s. upon the High Constables for their default about the Mariners and maimed Soldiers money, we judge it not safe for the Justices out of the Sessions to grant any warrant for the levying of any of these Forfeitures, upon 43 Eliz. For the Statutes do not certainly prescribe the way of Conviction and Execution both, in any of them, but is defective in one of them; and therefore the safe way to convict these offences, and levy the Forfeitures thereupon, is by the Sessions.

Caution to Justices.

4. That there must be two or more of the nearest Justices of the place *quorum nunc*, that must yearly within a moneth of Easter, under their hands and Seals (*Sub pena* of 5 l. to be forfeit

feir by the Justices) appoint 2, 3, or 4. substantiall persons of every Parish to be Overseers of the poor, and to joyn with the Church-wardens in that Office; upon 43 *Eliz.* chap. 2. And they are to joyn with the Officers of the place to set their poor on work, to put forth their Apprentices, and to make and levy Rates upon the Parish, for the raising of money for the work, 43 *Eliz.* chap. 2. And any two of the said Justices *quorum unus* for this purpose, may do these following things: (*viz.*) 1. They are to agree with the Church-Wardens and Overseers, in the placing of poor children Apprentices, and punish them that will not take them, bind them to the good behaviour and to the Sessions; upon 43 *Eliz.* chap. 2. So they may punish their Parents, that refuse to let them go, and the Children that refuse to go; upon 43 *Eliz.* If any difference be about this, they may decide it if they can, or leave it to the Sessions. *Resol. of Judges*, 1633. Sect. 2, 3, 4, 5.

5. That if any refuse to receive the children of poor people, as Apprentices being placed to them, or to contribute towards it, the Justices may require Surety of them to appear at the next Quarter-Sessions or Assizes; and if they refuse, send them to the Gaol till they do so. And if they shall then appear at the Sessions, and there refuse, the Justices may bind him to the good behaviour, commit him to prison, or cause him to be Indicted, and Fined for his Contempt. *Resol. Judges*, 1633.

6. That if the Parents of such poor children refuse to let them go to be bound, or intice them being

being bound, they may be punished by the Justices for it: And any two Justices, *quorum unus*, may do it.

7. That they may send to the House of Correction, or Common Gaol, the persons married or unmarried, having no means to maintain them, that use no ordinary and daily Trade of life to get their Living by, that be ordered by the Overseers with the Justices consent, to work, and will not work; upon 43 *Eliz.* chap. 2.

8. They may allow of, and subscribe the Rates made by the Overseers and Church-wardens, and to give warrant for the levying of it, and to force the refusers to pay it, by distress and sale of goods; and for lack of Distress, by Imprisonment, untill it be paid.

9. They may agree to, and license the setting up of a Trade in the Parish to set the poor on work there; upon 43 *Eliz.* chap. 2. And if there be but one Justice in the Division, he alone may do this: And other two Justices *quorum unus*, as well as the Justices who made the Overseers of the poor, may give Warrant for the levying of the money, by 43 *Eliz.* chap. 2.

10. They may, if they perceive a Parish to be overcharged with the poor, lay a Rate upon any persons within any other Parish within the Hundred, but not upon whole Parishes, to help them. But if they will go further then the Hundred with the Rate, then it must be done at the Sessions. And there a Rate may be set upon certain persons dwelling in any part of the County to help that Parish.

11. They

11. They may also send their Warrant to the present or subsequent Church-Wardens and Overseers, to levy by distress, and sale of goods, all Arrears of Rates, remaining in any mans hands; and, for lack of distress, send them to Goal till it be paid, upon 43 *Eliz. Chap. 2.*

12. They may force them, at the end of their year, to give up their account to them, and pay what money is in their hands to their Successors, or the 20 s. forfeiture for neglect of it, or of any part of their Office, by distress and sale of goods; and, for lack of distress, by Imprisonment. 43 *Eliz.* Two Justices may also take account of these Officers yearly, of their employment of all such money as they have in their hands of any mans gift, for the binding of poor Children Apprentices, by 7 *Jac. Chap. 3.*

Souldiers and
Mariners.

13. Any two Justices, upon complaint of a poor maimed Sould: or Mariner, that hath served the King, on proof of his service and wounds, by the Certificate of the Captain, or otherwise, which they may take upon Oath, order him relief out of the County-stock, till the Quarter-Sessions, and there a Pension may be settled on him, by 14 *Car. 2.* So they may give an allowance to the Orphans and Widows of such Souldiers and Mariners, till the Sessions, that a Pension be settled out of the County-stock.

14. Any two Justices may call any of the old Treasurers, that were for the maimed Souldiers, to an account, and force them, their Executors, or Administrators, to pay the money in their hands, to the present Treasurers, upon 14 *Car. 2.*

15. Any

15. Any two Justices (next to the place where a poor Mariner or Souldier that is come from beyond Sea to his place of Settlement, and can get no work) are to take order to set him on work, and to tax the Hundred for his relief, till he can have work, upon 39 *Eliz. Chap. 17.* To make a Rate.

16. Two Justices, *quorum unus*, may send to the *Bridewell*, or Common-Goal, such idle Poor as will not work, being thereunto appointed by the Overseers, upon 43 *Eliz.* But there is no way of Conviction of them set down by that Statute. And therefore we conceive it safest for the Justices to do it in the Quarter-Sessions. Caution to Justices.

17 Any two such Justices may compel any others of the Parish, besides the Overseers of the Parish, that have any of the stock in their hands for the Poor, to pay it in to the Overseers, *sub poena* 20 s. upon 43 *Eliz. Chap. 2.*

18 There must be four Justices to discharge an Apprentice of his Apprenticeship, by 5 *Eliz.* To discharge an Apprentice. And so it seems it may be done out of Sessions.

19 Any two Justices may take order to set on work Souldiers and Mariners that come from Sea, that cannot get work where they live; Souldiers and Mariners. Sect. 20. one Justice may licence a Labourer to go in Harvest out of one County into another to work, but not to beg.

20. Any two Justices may licence poor people to go, and to be for a time at the *Baths*, for the cure of their Diseases, but not to beg, and therefore they must be provided for their Journey, by 39 *Eliz. 4.* Licence by a Justice to beg, Such as go to Bath.

Seafaring man
suffering Ship-
wrack.

Money given
to put out
Children Ap-
prentices.

Constables,
Church-War-
dens, Overseers
of the Poor.

Sect. 21.
About a Ba-
stard-Child.

21. A Seafaring man suffering shipwrack, not having to relieve himself, any Justice near the place of his landing, may give a Testimonial under his Hand and Seal, declaring the time of his landing, and the place to which he is to go, and the time in which he is to go it; and in that time and way he may beg, and perhaps the more freely, if he be licensed by a Justice, to whom he doth make his poverty known, having not to bear his charges home, by 39 *Eliz. Ch. 4.*

22. If any money be given, to put out poor Children Apprentices in the place, the parties trusted with it, are yearly in the *Easter-week*, or within a moneth after, to account before two or more of the next Justices, which they may take. And for this it is to be known, that by the Stat. of 3 *Jac. Chap. 3.* That where any money is so given, it is to be employed out of Corporate places, by the Minister, Constables, Church-Wardens, and Overseers of the Poor, who must look to it under pain of 5 Marks. But see further in the Statute, how it is to be disposed.

23. The two next Justices (*Quorum unus*) may take order, as well for the punishment of the Mother, and reputed Father of a Bastard-Child, as for the relief of the Parish where it is born, by charging the Mother and Father with the payment of money weekly, towards the keeping of it, or otherwise. And if the Mother or Father perform not the Justice's Order therein, they are to suffer Imprisonment without Bail, except he or she give security to perform it, or else to appear at the next Sessions, and abide the Order of the Justices there, if any be there; if any be not, the Order first made, 18 *Eliz.*

Chap. 3.

Chap. 3. And all Justices within their Limits & Session, may do all that concerns Bastards, that by the Justices in the Counties are limited to be done by 18 *Eliz. Chap. 3.* For the further opening whereof, and of the Justice's power out of the Sessions, take these things.

1. That any two such Justices, for relief of the Parish, and Bastard, safety of both, and punishment of the Offenders, may without any reference from the Justices of the Sessions, of their own heads, make this Order, and one Justice alone cannot do it. And some make a question, whether it may be done by more then two Justices; therefore it is safest to do it by two Justices onely. See *Stile's Rep.* 252.

2. The question must be about such a Bastard-child, as is like to be a charge to a Parish, and not the Child of such persons as are able to keep it. *Croo. 1 Part.* 315.

3. The Justices, for the better discovery of the matter, may upon Oath examine the Mother herself concerning the reputed Father, the time, &c.

4. The Order may be made by any two Justices of the County, *quorum unus*; but more properly and conveniently, by two of the next or nearest Justices, *Steel's Rep.* 154, 245, 246.

5. This Order must be made at a private Sessions, and not at the publique Sessions; for if so, it is void, and all the Proceed thereupon illegal, *Stile's Rep.* 475.

6. It must be about a Bastard-child; And therefore an Order made in these words, That he shall keep his reputed Child [not expressing whether it be a Bastard-Child, or not] is held naught, *Stile's Rep.* 154.

7. It must be made against the person that is suspect to have the Bastard-child, and not another. And therefore an Order made by Justices, That another man should contribute to the half charge of the keeping of the Child, because he had suffered a Souldier to get it upon his Maid, was held not good, *Steel's Rep.* 267.

8. The Order must be pursuing the Act of Parliament, to this effect, To save the Parish harmless, or to secure it from the charge of the Child, or to keep the Child. And therefore it hath been ruled, That an Order to pay money weekly, towards the keeping of it, is not good, *Steel's Rep.* 14. 386.

9. The Security must be given to the Parish, where the Bastard-child is born; and it must be a Parish within the County, wherein the two Justices have power.

10. The Order must be certainly made, how long the reputed Father must keep the Child, secure the Parish, and the like; or else it will be void; and being removed into the *Kings-Bench*, will be quashed for insufficiency, *Steel's Rep.* 154.

11. The Justices having made this Order, the Parties concerned in it, are either to perform it; or if they do not like it, they may appeal from it to the next Sessions; but then they must enter into a Recognizance, there, and then to appear. And this must be in the disjunctive thus, To abide the Order made by them, or to appear at next Quarter-Sessions, and abide the Order there; otherwise it is not good, *Bulstr.* 1 Part, 243. And if they refuse either of these, the same Justices may send them to Prison, till they

they do one of them, *Hamond's Case, Mic. 3. Jac. B. R.* And this *Mittimus* may be by one Justice; but he must herein be sure to pursue the Statute.

12. That when this Order is made, the Justices out of Sessions can do nothing else in it, than what is before set down, but what is set down in the Act of the 18 *Eliz. Chap. 3.*

13. It is made a question upon this Law, Whether the Justices may examine upon Oath. And, as to this, we conceive, That they may, if they please, examine without Oath, and thereupon ground their Order, and this will be good enough; or, perhaps, they may examine upon Oath: for the matter being about Incontinency, it is within their Conuzance, wherein they do take Informations upon Oath, to bind to the Good Behaviour. For the power to send the Woman to the House of Correction, is onely in the Sessions, by 7 *Jac. Chap. 4.* And therefore could not be in ended by 18 *Eliz. Chap. 3.* And we conceive, that no punishment can be intended thereby, but the binding of them both to the Good Behaviour, and to appear at the Sessions; which, for Incontinencie, they might do by the Common-Law.

14. Any one Justice, upon his own discretion, may, before the birth of the Child, bind the reputed Father of a Bastard-child to the Good Behaviour, to the end, he may be forthcoming, when it shall be born. And so he may do after it is born, *Lamb. 122.*

15. There is power given by 14 *Car. 2. to London and Westminster, and the Burrows, Towns, and places, in the County of Middlesex and Surrey,* *Sect. 22.* Corporation for London and Westminster.

Surrey, within the Parishes mentioned in the Weekly Bills of Mortality, to erect a Corporation or Corporations, Work-house or Work-houses, to execute the powers of that Act.

The Justices for the Counties of *Middlesex* and *Surrey* respectively, at their Quarter-Sessions, to choose out of the most able Freeholders, and Inhabitants of those Counties, the President, Deputy-President, Treasurer, and Assistants for the Corporations, there to be erected, successively.

The Justices are at every Quarter-Sessions, to require and take an Account in Writings, of the Receipts and Disbursements of such Treasurers; and what Stock there is; how the Poor are ordered there.

The Heads of these Corporations may apprehend Rogues, and set them to work, and send their Names to the Privie-Council, who are fit to be transported to the *English* Plantations; and with the approbation of the Privie-Council, or two Justices, may send them away thither for 7 years to serve there.

If there be a want of Stock in either of the Corporations; the Common Council of *London*; the Justices at a Quarter-Sessions, or the Burgesses; and for the City of *Westminster*, and the Justices of *Middlesex* and *Surrey* respectively, the Justices (at their Quarter-Sessions) may raise money by a Rate upon the County, not above one years Rate to the Poor. See divers other things concerning the same, in 14 Car. 2.

Nothing

Nothing of this Statute of 14 Car. 2. is to prejudice any Franchise of the Dean and Chapter of *Westminster*, that he hath formerly had granted to him by any King or Queen.

And this Statute is all of it: But for the Corporation in *London* to continue till the 29th of *May*, 1655. and to the end of the first Session of the next Parliament following, and no longer, 14 Car. 2.

Nothing in 14 Car. 2. is to prejudice any Franchise the Dean and Chapter of *Westminster* hath formerly granted to him by any King or Queen, 14 Car. 2.

The Statute of 14 Car. 2. about the Poor and Rogues, all but what doth concern Corporations, to continue but till the 29th of *May*, 1655. and to the end of the first Session of Parliament, then next following, and no longer.

CHAP. XVIII.

Of Rogues and Vagabonds, and idle and disorderly persons. Of Bridewell, upon 43 Eliz. Chap. 7. 39 Eliz. Chap. 4. 17. 1 Jac. Chap. 7. 7 Jac. Chap. 4.

Sect. 1.
Rogue, Who? **F**irst, The Rogue is not one that begs in his own Parish, nor one that wanders into the next, but doth not beg there: But he is an idle dissolute person, Man or Woman, Sole or Covert, being above seven years of age, that wanders from his usual place of abode abroad, every where begging; (or such as beg in another Parish then their own) or, if not begging, yet he wanders and loyers abroad without a lawful Passport, and can give no good reason for his Travail, to satisfie a Justice of Peace. So Scholars and Seafaring-men that beg, wandering persons that use unlawful Games and Play; Fiddlers and Minstrels that shall be playing, or offering, or desiring to play in an Inn, Ale-house, or Victualling-house, albeit they do not beg. So Souldiers and Mariners that have Pensions, and yet beg. Such as feign themselves to have skill in Physiognomie, Palmestry, or the like. So counterfeit *Egyptians*, Labourers that wander, and refuse to work for the Wages reasonable assessed, having nothing else to maintain them.

Such

Such as being got out of Goal, go about begging for Fees, or pretend losse by fire, Juglers, Fortune-tellers, wandring Pedlers, Tinkers, Glasse-men, petty-Chapmen, Proctors, Patent-gatherers (unless it be for fire), Collectors for Goals or Hospitalls. So also Fencers, Bearwards, Common Players of Enterludes and Minstrels, wandring about, are accounted Rogues, and so to be dealt with as Rogues. There are also divers others that are to be accounted, dealt with, and punished as Rogues; As those that are sick of the Plague, and wilfully go abroad in Company against the Officers Command: such as run away, or threaten to run away from their charge, and to leave them to the Parishes. Servants that go out of their Parishes into another Parish to service, without a testimonial, or with a forged one. So he that shall go with his Passport alone without a Guid; yea, it is held by some, that no such person may now go with such a Passport, and that all Passports are void. So he that shall go with a general Passport, and not from Parish to Parish. 1 Jac. 31.

So a Rogue that hath been punished, and sent away, and shall not pursue the directions of his testimonial, or shall beg: Such as go to, or from Bath, and do not pursue their Licence: so Souldiers and Marriners, that beg and counterfeite a Certificate of their Commander, and such as have Licence from the Overseers, to beg in their own Parish, and beg else-where: all these are to be punished as Rogues: So a Pedler, that shall go about with Wares in his own Countrey, and sell them out of Faires or Markets,

kets, *Crow.* 2. 577. see for these things, 39 *Eliz.* chap. 4. 17. 43 *Eliz.* chap. 2. 1 *Jac.* chap. 7. 21 *Jac.* chap. 28. 7 *Jac.* chap. 4. 5 *Eliz.* chap. 4. And these are to be whipt, passed, and disposed of, as is hereafter set forth. In Sect. 2.

But a child under the age of seven years, cannot be a Rogue, Resolved by the Judges. And if the Parents be not Rogues, the children cannot be accounted such; unless they beg and become Rogues. And a Servant out of his time, that lives or wanders about idly. And such as beg onely in their own Parish, or wander into the next, but do not beg there; and such as have able bodies to work, and nothing to live by but their work, and do not wander, but refuse to work, or to work for the wages assessed, disorderly persons; these, and all such like as these, are not as Rogues, to be sent to their place of birth, or last dwelling. So he that is found in a privie search suspected, such as being of able bodies, run, or threaten to run from their Parishes, such as being allowed by Officers to beg, exceed their Licence.

All these, and such like, are not to be whipt, and sent to their place of birth, but these are to be sent to their place of dwelling, if they have any; if not, where they last dwell for a year; for no man but the Vagrant Rogue, is to be sent to the place of his birth, or last habitation.

But these are to be sent to the House of Correction onely. And such a wandering Souldier, or Marriner as is a Felon, by 39 *Eliz.* chap. 17. is not to be dealt with at a Rogue. See Sect. 5. afterwards.

Felon.

2. He must not then be sent to the House of Pasle or Correction, but must have a Pasle or Testimoniall, under the Hand and Seal of one Justice, or under the Hands and Seals of the Minister, Constable, and one of the Parish besides, or any two of them, setting forth the time and place of his Correction, together with the place to which he is to go, which way, and the time wherein, he is to go. But if this Offender be brought to a Justice of Peace, we do not think it to be needful, that he should order this Correction; for the Officers may, and ought to do it of their own accord, without the Justice of Peace his Warrant.

3. With this Pasle, he is to be sent and conveyed from Parish to Parish, by the Officers thereof, the next way to the Parish where he was born, if it may be clearly known by his confession, or otherwise: if not, then to the Parish where he last dwelt before the same punishment, by the space of one year: or (if neither can be known) then to the Parish there which he last past without punishment. And the Officer thereof shall carry him to the Correction-house, or Common Goal, where he is to be, till he be placed (if able) in Service; if otherwise, in an Alms-house. *Resol. of Judges. Sect. 714. Bull. 2. 258.*

4. If he be sent to the place of his last Habitation, because the place of his birth cannot be known, if afterwards the Parish can discover the place of his birth, and he confess it, the Parish may send him thither. As if he shall say, the place of his birth is at D. (and it cannot otherwise appear) and that his last place of habitation

habitation was at S. and he being whipt, is sent to S. and then it is known, and he confesseth the place of his birth was at W. In this case, he is to be sent to W. without any new vagrancy. *Resol. Judges. in 1633: Sect. 36.*

5. He is to be sent the next straight way, and is to be conveyed from Constable to Constable, from Parish to Parish, by his Passe, to the place appointed, and there tendered to one of the Overseers of the poor, or Churchwardens of the place.

6. He is not to be relieved, but by them that convey him, and therefore if any Alehouse-keeper lodge him, or other give him at his door, he forfeits 10 s.

7. Every one that seeth a Rogue begging, is to cause him to be conveyed to the Constable, under pain of 10 s. to be levied and employed as the forfeitures upon 39 *Eliz.* chap. 4. And if the Constable or Tythingman, do not punish him, being brought to him, he forfeits 20 s. to be levied and employed in the same manner as the last, by 1 *Jac.* chap. 7.

8. If any Constable or Tythingman, shall neglect his duty in the apprehension, punishment, and conveying of such a one to the place of his birth, &c. he shall forfeit 10 s. And any other that shall disturb the execution of this Law, in the punishment, or conveying of Rogues; as if Constables shall not receive or passe them from Parish to Parish, or the Churchwardens and Overseers of the place of settlement, refuse to receive them or the like; or in the relief or settlement of poor impotent persons, or shall rescue such a Rogue or person to be settled,

settled, he forfeits 5 l. by 39 *Eliz.* chap. 4.

9. The substance of the Testimonial for the Rogue, is to be registred by the Minister in a Book provided for the purpose, *Sub poena* 5 s. by 39 *Eliz.*

10. None may transport such a Rogue out of Scotland, Ireland, or the Isle of Man, born there, under pain of 20 s. And if any such be found in England or Wales, they shall be sent back.

11. And none but a Rogue is thus to be used. Nor is any Rogue to be used otherwise; for he is not to be sent to the house of Correction. *Resol. Judges.* Whither, and for the place to which such a person is to be sent, see before in settlement, chap. 17. Sect. 12.

12. Those that are to be sent to *Bridewell* to be whipt, and set on work there, they are to be conveyed by the Constables, at the charge of the Hundred. But the Rogue, whose place of last dwelling, or birth, cannot be known, is to be passed thither by the Officer of the Town, through which he last passed unpunished. *Cook* 2. part *Instit.* 730. 39 *Eliz.* 4. But no Rogue upon his first apprehension, and for wandring onely is (as it seems) to be sent to *Bridewell*; but to be whipped, and passed to the place of his birth. *Bulstr.* 2. 358.

An Incorrigible Rogue is said to be such a one as doth appear to be dangerous to the people, that doth offer violence or threatening Speeches to them, that will not leave his roguish life, but either being punished and sent home, doth rogue again; or affirmeth, that he was born or last dwelt in such a place, which is after found false, and that it was in another place. Or being

Incorrigible
Rogue, who
And how to
be dealt with

being able to work, doth run away from his Family, and leave it to the Parish.

In Sessions.

Such a Rogue is in the Sessions to be burnt on the left shoulder with an hot Iron; and from the Sessions, to be sent to the place of his habitation; and from thence, to *Bridewell*, by 1 Jac. chap. 27. And if he offend so again, he is to suffer as a Felon. Or in the Sessions, they may order the transportation of him to any of the Plantations beyond the Seas, by 14 Car. 2.

Felon.

Transportation

But one Justice may secure him, till two Justices may send him to Goal, or to *Bridewell*, by 7 Jac. 4. 39 Eliz. 4. And for this, there must be two Justices *Quorum unus* to do it, And yet there is no way to convict him by those Statutes. See more afterwards. Sect. 4.

Out of Sessions

House of Correction, or
Bridewell.

Sect. 3.

The House of Correction, is a House appointed by Law, to be set up and continued in every County, for restraint and punishment of Rogues, wandering, idle, and disorderly persons, who are to be sent thither, and there kept on work.

For this only is to be known. 1. That the Justices of every County, are to erect, and maintain such houses for this use, as they see cause, and order the same; for which, see Sect. 4. afterwards.

The Forfeitures of 39 Eliz. 4. that are not thereby directed to be otherwise employed, shall go towards the maintenance of the house of Correction, or to the poor of the place where the offence is committed, as the Justices shall appoint, by 34 Eliz. 4. See Sect. 4.

The Justices
power in these
things at their
publick Sessions.

6. As to the Justice's Power, in and about the House of Correction, and Rogues, and such like

like persons to be sent thither by the Sessions, these things are to be known.

Sect. 4.
For erecting,
and ordering
of Bridewell,

1. That the Justices of every County and Corporation, may (in their Sessions) give order for the erecting of such a House, or Houses, and for the maintainance and government thereof, and for the punishment of Offenders, which shall be thither committed, by 39 *Eliz. Chap. 4.* 7 *Jac. 4.* And at the Session they are to order the remove, change, or punishment of the Governour, as they have cause, and shall think fit, 7 *Jac. 4.* They are (in the Sessions) from time to time, to appoint Governors of the said Houses, to set Rogues and idle persons on work, and to punish them by moderate whipping, or putting Fetters or Gyves upon them, by 7 *Jac. Chap. 4.*

2. These Governours shall have so much yearly allowance, to be paid quarterly for this, as the Justices in Sessions shall appoint: And this to be paid by the Treasurers of the County, they giving Security for their continuance in the Service, by 7 *Jac. Chap. 4.*

3. If these Governours do not every Quarter-Sessions, give to the Justices a true account of all such as are committed to their custody, or suffer any such to escape, or to be troublesome to the Countrey, by going abroad, or otherwise, the Justices may Fine them here in Sessions at their discretion. And these Forfeitures are to be paid to, and accounted for by the Treasurers of the County, by 7 *Jac. Chap. 4.* The Justices of Peace in their Quarter-Sessions, have power to dispose of such Vagrants as are sent to *Bridewell*, and to send and commit to the *Bridewell*,

About a
Rogue.

Sect. 5.

well, all Rogues, Vagabonds, wandering, idle, and disorderly persons. And in particular, the persons, and in such sort as is hereafter following.

1. Such as have able bodies to work, and have nothing to live by but their work, and yet refuse to work, or to work for the wages assessed, or for reasonable wages, 39 *Eliz.* chap. 4. 43 *Eliz.* chap. 2. 7 *Jac.* chap. 4. But a man that hath an estate to live by, may not be forced by them to work; or sent thither, because he refuseth to work. *Cook* 2. part, *Instit.* 730. And he that hath nothing but his work, and is idle, is not to be sent to his place of byrth, but to the house of correction.

2. The persons before mentioned in Sect. 1. in the Description of a Rogue, what he is, that are not to be past to their place of byrth. Such Parents as are poor, and will not suffer their children to be bound Apprentices by the Overseers of the poor: or being bound, will not suffer them to serve out their time, or entise them out of their Service. *Resol. Judges.* 1633. Sect. 7.

3. But such a one as hath had a Bastard-child, able to keep it, is not so to be dealt with. But one that hath had a Bastard-child like to charge the Parish where it is, she is to be sent thither to be set on work a whole year. And if she so offend again, she is to be sent thither again, there to remain, till she put in Sureties for the good Behaviour, and not to offend so again. 7 *Jac.* chap. 4.

4. Such a man or Woman that is able to work, that shall threaten to run away, and to leave his

his Family upon the Parish, he is to be committed thither, unless he give Security to save the Parish harmless, by 7 Jac. 5.

5. Such as by 5 Eliz. Chap. 4. ought to live in Service, and are out of service, and have been warned by two Justices, to put themselves into service by such a time, and do not, *Resol. of the Judges.*

6. The Alehouse-keeper, that after he is once convicted thereof, shall sell Ale the second or third time, by 7 Jac. 4. 3 Car. 1. Chap. 3.

7. He or she that is out of service, and hath not visible means of his own to maintain himself, without his or her labour, and refuse to serve as a hired Servant by the year. *Resol. Judge. 1633. Quest. 17.*

8. He that is brought up in Husbandry, or a Maid-servant brought up in any of the Trades mentioned in the Statute, who hath not any visible means to maintain her self, otherwise than by her work, that is warned by two Justices to put him, or her self, into service, or to work by the day, and doth not so. *Resol. Justices, 1633. Sect. 17.*

9. The Rogue, whose place of birth, or last dwelling for a year, cannot be known, as where he shall refuse to tell the place of his birth, or settlement, or shall name a false place, *Resol. Judges, 1633.* But otherwise, a Rogue is not *Rogue.* to be sent hither; for this is especially prepared for the Poor of the Parish, who refuse to work; there they are to be whipt, and set on work; and a Rogue is to be whipt, and sent to the place where he was last settled; if it can be known

known; otherwise, to the place of his birth, or last habitation. *Resol. of Judges, at Worcester Assizes, 14 Car. 2.*

10. And finally, any other disorderly person whatsoever, albeit he have means to live by. But this disorder must be in something else, and not about his idleness or work. All these, and such like, may by the Justices, at their Quarter-Sessions, be sent to the *Bridewell*, to be whipt and set on work.

11. All those that may be sent thither, must be convicted of the Crimes for which they are to be sent thither; and there must be a way for it, and in most of them it must be by Indictment, and cannot be otherwise; and therefore the work, in those cases, may not be done, but in the Quarter-Sessions. See 39 *Eliz.*

12. A wandering Pedler, that carryeth about Wares to sell in private houses, and not in Markets and Fairs, albeit it be in his own Countrey; or any other person, before described to be a Rogue, may be indicted, and punished for a Rogue in the Sessions. See 5 and 6 *Ed. 6. 21. 14 Eliz. 5. 39 Eliz. 4.*

Out of Sessions

13. And so for such a person, a Justice of Peace, if (upon examination) he shall find he can give no good account of his life; it seems very reasonable, and according to Law, that he may put him to give Sureties for his Good Behaviour, and to appear at Sessions, or send him to Gaol. And were this course taken, there would be fewer Vagrants in the Countrey.

In the Sessions.

14. In the Sessions, the incorrigible Rogue

is to be punished, by burning on his left shoulder with an hot Iron. And for his second offence, as a Felon; and to be transported, if this be to be done, 1 Jac. Chap. 27. 14 Car. 2.

Incorrigible
Rogue.

15. Here also in Sessions, such Souldiers and Mariners, as wander without a Testimonial of some Justice, and will not settle to work, or shall counterfeite a Testimonial, or do any thing against 39 Eliz. Chap. 4. these may be proceeded against as Felon. See the Statute at large.

And here the Justices are to punish the neglect of Officers, in their duty about Rogues, and other that hinder the Execution of the Statute about Rogues, 39 Eliz. 4. 1 Jac. 7. 7 Jac. 4.

The power of the Justices out of Sessions, about Rogues, idle and disorderly persons, lyeth in these things.

Sess. 6.
What the Justices hath to do out of Sessions.

1. Any two Justices, *quorum unus*, may hear and determine any offence in the Act of 39 Eliz. Chap. 4. And therein, it seems, the Confession of the Offender, or proof by two Witnesses, will be a sufficient Conviction. And thereupon the same Justices may, by Warrant under their Hands and Seals, by way of distress and sale of goods, cause the Forfeitures within the Statute to be levied, by 39 Eliz. Chap. 4.

2. The two next Justices may send to the House of Correction, the person that hath had a Bastard-child, that may be chargeable to the Parish, there to be set a work for a year; but the Child must be born, and living, or she may not be so punished, upon 7 Jac. Chap. 4.

Caution to
Justices.

3. Such Poor as have able bodies to work, and nothing but their work to live by, and do not work in their daily Trade, and they have work provided by the Overseers of the Poor; it is said, that any two, or more of the Justices, may commit such person to the Gaol, or to the *Bridewel*, by 43 *Eliz. Chap. 2*. But here is no way of Conviction of the Offence set down. And therefore we cannot see how it can be done out of the Sessions. So it is said for such Poor as beg beyond their Licence; such Labourers as can work, and will not work for the Wages appointed, and some others, that the Justices may send them to *Bridewell*. But we cannot see clearly, how it is grounded otherwise, than upon 7 *Jac. Chap. 4*. That if Constables shall neglect to convey safely all such Rogues, with all other idle and disorderly persons, &c. as by the Justice's of Peaces Warrant shall be sent to the Houses of Correction, &c. that then they shall forfeit, &c. By which is implied, that the Justices might and do send such persons thither. But this must refer to the Cases, in which they are by other Laws empowered to send them thither. This therefore however, may not safely so well be done out of, as within the Sessions. See 39 *Eliz. Chap. 4*. 7 *Jac. Chap. 4*. As to the Warrants then, and some of the *Mittimus*, in the former Works put forth, referring to these matters, which are contrary to the Cautions herein given, we do, upon better consideration, utterly dislike them, and advise the Justices of Peace not to use them.

4. That

4. That where a Constable is put to charge, by the Relief, or the Conveyance of a Rogue by a Pass; he, with the Church-Wardens, Overseers of the Poor, and some of the Inhabitants of the Parish, may make a Rate upon the Parish to raise it; and therein may rate all such as are ratable to the Poor, 44 *Eliz.* And this Rate any two Justices may and must conform, and give to the Constable their Warrant to levy it by distress, and sale of goods, rendring to the Parties the over-plus. And herein the Constable is to pay himself, upon 14 *Car. 2.*

5. Any one Justice, upon his own sight, may cause a wandring Rogue to be whipt, and passed to his place of birth, by 39 *Eliz. Chap. 4.* and 1 *Jac. Chap. 7.* But this may be done without him. And if he be brought to a Justice, by an Officer, or others, the Justice need not to order his Correction; for the Officer of his own head and authority may do it, and he is punishable if he do it not. But there must be two Justices to send away a Rogue, that shall falsifie the place of his birth.

6. There must be two Justices (*Quorum unus*) to appoint a privie Sessions, and this must be twice a year, and to send their Warrant to the Constables, and to command a privy search three or four days before the meeting, and to apprehend, and bring before them, all suspicious persons; and to command all the Constables of Hundreds to be then there, and to command the Constables of Parishes to present upon Oath, under the Ministers hand, what Rogues they have taken, punished, and sent away,

Privie Sessions.

To be done in
Sessions.
Caution to
Justices.

away, and to set a Fine of 40 s. or under, upon any of the same Constables, for not appearing before them, or for not making of a Return, or for not executing of their Warrant, or for not execution of the Justices Warrant at any other time, in the convey of Rogues to the *Bridewell*, upon 7 *Jac. chap. 4.* 21 *Iac. ch. 28.* But herein is no way of Conviction, or Levie of the money set down; and therefore this is best to be done in Sessions.

7. There must be two Justices, *Quorum unus*, that by the Stat. of 39 *Eliz. chap. 4.* by Warrant, under their Hands and Seals, upon the confession of the offence by the party, or proof thereof by two Witnesses, may give power to levy by distress and sale of goods the Forfeitures, within that Statute, viz. the 5 s. upon the Minister, for not keeping a Register-Book, the 10 s. upon the Constable, for his neglect in the apprehension and punishment of Rogues, the 20 s. upon him, for his not punishment, and for the not safe convey of him (being brought before him) by another; the 10 s. of another man that is no Officer, that doth not apprehend a Rogue begging at his door, or that shall bring a Rogue out of *Ireland* hither.

8. So also, there must be two Justices, that upon the like Conviction, may cause to be levied by distress, and sale of goods, the 5 l. Forfeiture, and bind to the Good Behaviour such as disturb the execution of the Stat. of 39 *Eliz.* As Officers, that shall send a Rogue by a general Passport, or that shall refuse to receive a Rogue, when he is brought to them; or that shall hurt him

him away; or that shall not bring him to the next Parish.

9. So likewise, there must be two Justices, that, upon the like Conviction, may give Warrant to levy by distress, and sale of goods, the 5 l. Forfeiture, upon other persons that are not Officers, that shall shift away, or rescue a Rogue; or such as shall hinder the settlement of a Rogue; or that when he is duly seized in any place, shall remove him without Authority. But the Statute being penned thus; That if the offence shall be confessed by the Offender, or be proved by two sufficient and lawful Witnesses, not saying, what Proof it shall be; nor giving power to two Justices, to take the Conviction by such Proof: it seems not safe therefore for the Justices to do it out of Sessions, but rather in the Sessions. But where it is done, upon the Confession of the Offender, there the Case is more clear.

Caution to
Justices.
To be done in
Sessions,

10. There must be two Justices upon proof, before them of two Witnesses upon Oath, that he or she hath threatned, to run away, and leave his Family, upon the charge of the Parish, that may send him to the House of Correction unless he can put in sufficient Security to discharge the Parish, upon 7 *Fac. chap 4.*

Secl. 6.

11. Any one Justice, to whom a Rogue shall be brought, hath power to reward the person that doth apprehend him: And for this may send his Warrant, under his Hand and Seal, to the Constable or Tithing-man of the place, through wch he did pass unapprehended, to give him 2 s. for every Rogue so taken; the which, if he do not

To make a
Certificate.

give him, that Justice may proceed against the same Officer, upon 1 Jac. chap. 7. and out of the Forfeiture of the Constable for that neglect, give to the party that apprehended the Rogue, what allowance he thinks fit. And if one shall take a Rogue going out of one into another County, who had passed through a Parish of the other County unapprehended, he may go to any Justice of the County through which he passed, and the Justice is then to give him a Certificate of it, and a Warrant under his Hand and Seal to the Constable of the place he went through, to pay him 2 s. the which if he do not pay him, then he may proceed against him for the 10 s. upon the Statute of 39 Eliz. chap. 4. 14 Car. 2.

Incorrigible.

12. Any one Justice may secure an incorrigible Rogue brought before him. But there must be two Justices, and one of the *Quorum*, to send to the Goal, or to the Bridewell, an incorrigible Rogue, till the next Quarter Sessions, upon 39 Eliz. chap. 4. And yet in this also, The Justices must be sure he is an incorrigible Rogue, and he must be then in his presence; for the Justice hath no power, or way given or prescribed, to convict him hereof.

Maiors, &c.

13. The Justices are not to meddle within Corporations, but the Officers there shall use the same power as the Justices within their limits, 39 Eliz. chap. 4. nor alter the power of the City of London, in St. Thomas Hospitall in Southwark, or to prejudice John Dutton of Dutton in Cheshire.

CHAP. XIX.

About High-ways, Bridges, Sewers, and Streets,
upon Statutes of 2 and 3 Phil. and Mar. chap.
8. 5 Eliz. chap. 13. 18 Eliz. chap. 10.
14 Car. 2.

AS to the High-ways, Bridges, Sewers,
and Streets, these things are to be
known.

1. That the Church-wardens and Constables,
or Tythingmen of every Parish, are upon the
Munday or *Tuesday* in *Easter* week, (after no-
tice given publickly in the Church the Sabbath
day before) after morning Prayer ended, with
the advice and consent of the major part of the
Parish then present, choose two or more of the
sufficient Inhabitants of the place to be Survey-
ors [or Supravisors] for their high-ways for
the next year, and give notice thereof to the
persons chosen in writing, under pain of 5 l. to
be forfeit by the same Churchwardens, Consta-
bles and Parish, upon 14 Car. 2. due upon 2. &
3. Phil. and Mar. chap. 8. they may be pun-
ished by Fine, or Amerciament in the Quarter-
Sessions, by the discretion of the Justices.

2. The Constables and Church-wardens are
then also to appoint 6. dayes betwixt that and
Midsummer, for the amendment of the high-
ways, and to give publick notice thereof in the
Church, the next Sunday after *Easter*.

Seff. 1.

As to the ma-
king, & choyce
of Surveyors.
Constables and
Church-war-
dens, and Pa-
rishioners
Duty.

3. And

3. And the Surveyors are to see that the Parishioners do their work therein accordingly, by 2. and 3. *Phil.* and *M.* And these Fines are to be levied and imployed by the High Constable, upon 2. and 3. *Phil.* and *M.* chap. 1.

The Power &
Duty of the
Surveyors.

Sett. 2.
To undertake
the Office.

To view the
High-ways.

To raise money
by a Rate.

How the Rate
is to be made.

4. As to the Office and Duty of these Officers thus chosen, it lieth in these following things.

1. They are forthwith to take the Office upon them, under pain of 20 s. a piece, by 2. and 3. *M.* 8.

2. They are within 20 dayes after notice is given to them of their Choyce, to view all the high-ways, and Bridges, Water-Courses, Cawseys, and Pavements there in the Parish to be repaired, and consider what is to be done, and what money will be needful to do it, more than the work appointed by the Statutes to be done, by 14 *Car.* 2.

3. They with two or three of the more substantial Housholders of the place, are within 10 dayes after the Survey of the defaults, to set a Rate upon all the Inhabitants of the Parish, rateable to the poor, and upon all occupiers of Land, Houses, Tithes Improprate, or Appropriate Portions of Tythes, Coal-mines, and other Mines, saleable Underwoods, Stock, Goods, or other personal Estate (not being Household-stuff) within the Parish. (20 l. in Stock, Money, or Goods, to be rated after the Rate of 20 s. a year in Land; and no man to be charged for his Land and Stock, both at once) for the Repair of the high-ways. But this Rate must not exceed in all upon the Parish 6 d. a pound through the

the year. This Rate must be viewed and allowed, and signed by some one Justice near thereabouts, within 6. dayes after it is made. And this must be done under pain of 5 l. And the Tenant, and not the Landlord, is to bear this burden. But where the high-ways, and Bridges of the place will be amerced sufficiently by the Ordinary 6. dayes work, there the Justices may forbid it, by 14 Car. 2. But this power is to continue only 3. years, to raise money by way of Rate, for repair of high-ways, by 14 Car. 2.

4. They are to see the wayes repaired, under pain to be fined by the Justices in their Sessions at their discretion, upon 5 Eliz. chap. 10.

5. They are to have, levie, and collect by Warrant, under the Hands and Seals of two Justices by distress, and sale of Goods, not onely the Rates for the high-ways, but also all charitable Gifts given, or to be given for the repair of the high-ways, except Gifts made to a Colledge, Hall, Free-School, or Hospitall to such uses; and all Fines and Forfeitures, not otherwise disposed of, by 14 Car. 2. And all Issues for not appearance upon any Information or Indictment, for not repairing of the high-ways, and for not removing of Nusances, and all Fines and Amercements imposed upon any place or person, for not repairing of these high-ways. And all these are to be employed by the Surveyors of the place, for the repair thereof, by 14 Car. 2. See 2 and 3 Phil. and M. chap. 1. 5 Eliz. chap. 1.

To Collect
and levie the
monies.

6. They

To hire
Labourers.

6. They are at any time, between the first of *May*, and the last of *August*, to hire Labourers, Carriages, and what is needful for the amendment of the high-ways, by 14 *Car. 2.*

7. They are to see that every man doth the work that by Law he is appointed to do for his Plow or himself, by 14 *Car. 2.* or be punished by Fine and Amercement in the Sessions at the Justices discretion.

To order
the work.

8. They are to order and direct every man in his work, to be done on the 6 dayes, where, and how to do it. And they may hire these Workmen longer than their 6. dayes, if they will; and give them what shall be reasonable, after the Rate of the Countrey, for what they do above their 6. dayes work, by 14 *Car. 2.*

9. If they think Carts to be needless, they may spare them, and require two men instead of a Cart; and if they fail, they shall forfeit 12 d. for every day that either of them make default, by 2. and 3. *Phil. and M. 8.*

In the enlarge-
ment of the
High-w y.

10. Where the high-way is not of 8 yards breadth, from the brink of a Ditch (where ditches be) or hedge where no ditch is, the Supravisors may enlarge them to 8. yards upon the adjacent grounds, by order of the Quarter-Sessions, and by the allowance of two or more Justices appointed by Sessions to view it; and after a Writ of *Ad quod damnum* had, and returned, and after satisfaction given to the owner of the ground: which may not be given more then after the Rate of 20 years purchase, by 14 *Car. 2.*

11. That

11. That where want of Gravel, Chalks, Sand, Cinders, or Stones, is within the Parish to repair the high-ways, the Surveyors, and such as they shall appoint by the allowance of two Justices of Peace, are to dig, and take it out of the Wast, or Common of any neighbouring place, or upon the Sea-coast, without paying any thing for it, unless there be a Custom to pay for it, so as they fill up the place out of which it is taken, within a moneth, if it be required by the owner of the ground. And where these materials are wanting, and not to be found in the Commons, or wast grounds of the Parish, the Surveyors, and such as they shall appoint, may dig, and take it out of any mans several ground, near to the high-way (not being a House, Garden, Orchard, Park, Court-yard, Park with Deere in it, or Meadow) where it is to be found, without paying any thing for it, save onely the damages he hath by the digging and carriage, as two Justices shall set down, if they cannot agree upon it.

In the taking
of stones, gra-
vel, &c.

For filling of
Pits.

Upon 14 Car. 2. The hole to be filled up, according to the Statute of 5 Eliz. chap. 1. under pain of what Fine the Justices shall set down in the Sessions. They may take for the amending of the high-ways, so much of the Rubbish, and small broken stones already digged out of any mans Quarrie within the Parish, as they need, without the owners leave; but they may not dig, or take out of any mans Quarrie, the stones already digged, or dig for new stones without leave. Also, they may enter into any mans ground, and gather the stones that lie dispersed

In the Sessions.

perfed there. And where no fuch rubbish is to be found in any fuch Quarry in the place, they may enter into any mans ground near the high-way, where the decay is, where materials are like to be found, and dig a new Quarry without leave of the owner of the ground. But they may not without leave of the owner, dig any new Quarry in any mans house, Garden, Orchard, or Meadow; nor where they may dig, may they dig more then one Pit, and the fame not above 10 yards in breadth or length, at the moft. And then alfo they muft fee the Pit be within a month after filled up again at the Parifh-charge, under pain, to forfeit 5. marks to the owner of the ground. 5 *Eliz.* chap. 13.

Bridges.
Sect. 3.

As to Bridges, this is to be known;

1. That (of common right) they are to be repaired by the whole County.

2. That if any be bound by Prefcription, to the repair of it, they muft do this by the Common Law. Such as time out of mind have done it, they muft do it: but a voluntary repair of a Bridge, will not make a man chargeable. And this if not done, the party may be indicted for it.

3. The Statutes of Q. *M.* and Q. *Eliz.* as it feems, do not extend to common Bridges. *Coo.* 2. part of his Institutes, 702.

About Bridges

4. The Surveyors are to make upon every Bridge, fufficient Walls, or Posts and Rails of each fide, four foot high at leaft, and to keep the fame repaired, by 14 *Car.* 2.

5. If it cannot be known what perfon, or place fhould repair it, it may be enquired by 4.

Justices

Justices near the place, 22 H. 8. 5.

6. A Bridge lying in a Corporation, or Franchise, shall not be charged on the Hundred, or Guyldeable, *Et sic e converso*.

7. If a Bridge lie in two several Counties, or Divisions, both Counties must contribute towards it. *Dalt. Just. P.* chap. 13.

8. They that are to repair a Bridge, are to amend the wayes at the end of it for 300 foot. *Co. 2. part Instit. fol. 320.*

13. That they, or one of them, present every default, upon 2. and 3. *Phil.* and *M.* 5 and 6 *Eliz.* chap. 13. within a moneth after it is done to the next Justice of Peace, in pain of 40 s. 5 *Eliz.* chap. 13. and to be fined by the Justices at their next Sessions.

Presentment of Defaults.

14. That they are to give, and make within a moneth after the end of their year, a perfect Account of all their Receipts and disbursements, and what money is in a Arrear for Assessments, Fines, Forfeitures, Penalties, and charitable Gifts, under their hands, to the Inhabitants of the Parish, at a publick meeting appointed by the Parish, and pay over the overplus of money (if any be) in his hands to the next Surveyors, or may be committed by two Justices, till he do account, by 14 *Car. 2.*

To give an Account.

15. That where any common Nuisances be in the High-ways, or Ditches; or the Water-courses adjoyning to them, be not scowred and dressed; the Surveyors are to see it reformed in a course of Law, and pay themselves what they lay out therein, out of the common Stock, upon 14 *Car. 2.* And if there be any Spring, or

Common Nuisances. Hedges. Ditches, 1

or water in the high-way that doth annoy it, they may turn the same out of the high-way, into any mans ditches, according to their discretion. They may also make Sluces, where any Banks have been heretofore cast up of ditches adjoyning to the high-way, by 18 *Eliz.* chap. 10.

16. The penalties appointed by 18 *Eliz.* 10. 2. & 3. *Phil.* and *M.* 8. 5 *Eliz.* 13. shall be levied by the Surveyors *ex officio*, without Warrant, by distress and sale of goods, and shall be employed towards the amendment of the high-ways. And if the Surveyors neglect to do it within a year after the offence committed, the Constables and Churchwardens are to do it.

17. That they are not by these Laws chargeable, to look to the repair of any high-ways; but such ways as are called the Kings high-ways. And so it hath been resolved by the Judges.

18. That where a high-way is enlarged by addition from other mens ground, there this is to be repaired at the Parish charge, as the other ways are repaired, upon 14 *Car.* 2.

Sect. 4.
As to the Duty
of the Parish,
and of every
man in it.

3. As to every Parishioners Duty herein, these things are to be known, That every Inhabitant is to pay his Rate for his work. And he that shall not within 20 dayes after demand of it by one of the Surveyors, shall pay twice as much as his Rate, unless upon complaint made to a Justice, of wrong done to him therein, the Justice shall think fit to order it, upon 14 *Car.* 2. And the Tenant, and Occupier of Land, not the Landlord, is to bear the Rate towards repair of the high-ways, by 14 *Car.* 2.

2. That

2. That every man is to see he doth the work appointed by the Statute, as the Surveyors shall order him, unless they shall dispense with any part thereof.

Refusal to work.

And if any man shall not come, or that comes with his Plow to work, & refuse to do the work appointed by the Overseers of the work, he is to forfeit 10 s. a day. And he that comes to work himself, and refuseth, forfeits 18 d. a day, by 14 Car. 2.

3. And it is required, That every person, that hath a Plow-land in Tillage, or Pasture, in the same Parish; or that keepeth there a Plow, or a draught, is to send at the time appointed, a Wain, or Cart, provided after the fashion of the Country with Oxen, &c. and with necessary tools fit for the work, and with two able men, and there they are to labour therewith 8. houres every day, where, and how the Surveyors shall order them, under pain, to lose 10 s. for every default. And every Householder, Cottager, and Labourer, (able to work, and no hired Servant by the year) must by himself, or an able man for him, labour there 8. houres on every of the same 6. dayes, where and how the Surveyors for the Amendment of the same wayes, shall appoint him, under pain to lose 12 d. a day for every default, 2. and 3. Phil. and Mar. chap. 8.

What work every one is to do.

But for the opening of this branch, take these things.

1. That a Plow-land is not of any certain content, but ordinarily it is so much as one Plow what may plow in one year, which in some Coun-

tries is more, and in some lesse, according to the heaviness of the Soil.

2. That so many Plows as men usually have, and use in the Summer about their own business, so many they are to bring with them to this work. So that if a man have one Plow, and 5. or 6. Horses, and shall plow 7. or eightscore Acres of errable Land, and shall usually go in the Summer-time with two Carts, or Draughts; in this case, it seems, he is to come with two Carts, or Draughts to this Service. And he that occupieth 40. or 50. Acres of Land, and keepeth only 3. Horses, and one draught or Cart, he is to come with one draught or Cart.

3. If a man keep onely two Horses and a Cart for his own business, in this case it seems he is to come with his Cart and two Horses, with a man, or men, to mannage them.

4. He that keepeth in his possession, divers Plow-lands in divers places, must in every place where his Land is in his occupation, find a Plow with men for the work.

5. He that occupieth a Plow-land lying in Tillage, or Pasture in several Parishes, shall be chargeable with his Plow, in the place where he dwelleth, as far as one that hath a Plow in one Parish.

6. He that keepeth a Plow, or draught for Carriage, albeit he occupy little or no Land, or Pasture in his own hands, yet such a one is to send his Plow to the Service.

7. A Plow-land may contain House, Meadow, Pasture, and Wood. And if one have so much of this as will keep a Plow, and yield Tillage

lage for it, if part of it were eared; in this case, it seems, he is to send his Plow.

8. He that hath a Plow-land, and no Plow, but doth suffer his Land to lie fresh, yet he is to find a Plow for this work. And so it hath been agreed by the Judges. *Mich. 21 Jac.*

9. If a man be chargeable but as a Cottager, and he be 5 l. in the Subsidy Book for Goods, not chargeable upon 2. and 3. *Ph. & M. 8.* to the highways; whiles he is at this Rate, he is to send 2. able men to the work every of the dayes.

10. If the Surveyors shall think any of the Plows or Carts to be needless any of the six dayes, and they shall require two able men instead thereof, they must come under pain of 12 d. a day for every default. 2. & 3. *Ph. & M. chap. 8. 18 Eliz. chap. 10.*

4. The Lord of a Park that doth inclose, must set out 200 foot on each side from the way, or a sufficient Wall or Ditch, or Hédge, that robbers may not escape. *Dalt. Just. P. chap. 26.*

5. The high-ways that lead from Market to Market, ought not to have Dike or Bush within 200 foot on either side, where Thieves may lurk; but they are to cut up the Bushes, under pain to be fined by the Justices at their Sessions, according to discretion, upon 1 *Eliz. chap. 2.* Such as make inclosures next to the high way, must amend the high way next the Inclosure, or it must be amended by the Parish.

6. The owners of the Grounds adjoyning to the high ways, are to take care, that all the fences, hedges, and ditches next adjoyning on either side thereof, be kept low, and well scow-
red;

For Hed. es;
and Ditches;
and Bushes.

Nuisance.

red, and cleared of Bushes and Trees, under pain of 10 s. for every default. And he that hath a ditch in his ground that serves to lead away the water from the high way, must make and keep the same clean, under pain of 12 d. for every Rod unscowred for every default, 5 *Eliz.* chap. 13.

And he that scowres a Ditch by the high-way side, and suffers the filth cast out to lye in the high way to annoy it 6. moneths, shall lose for every Load so cast up, and lying, 12 d. And he that shall offend in this, or not scour his Ditches, &c. and cut down the Bushes in the high-ways, by the Stat. of 13 *Eliz.* chap. 9. the Forfeitures of these offences, may be levied by Warrant to the Surveyors, from the Justices of Peace, before whom they shall be convict.

7. That if the labour appointed by the Statutes be not sufficient, and the wayes be not sufficiently repaired thereby, the Parish is to supply it; for every Parish, at its peril, must keep the high wayes sufficiently repaired. For an Indictment (by the common Law) may be brought and maintained against the Inhabitants of a Parish, for not repairing of their high wayes. And thereupon, the Parish shall be fined at the discretion of the Justices. And this Fine shall go towards the repair of the high wayes, as other Forfeitures and penalties shall do.

The Office of
th Justice of
Peace. And
what a Justice
of Peace hath
to do herein.

8. As to the Office, Duty, and Power of the Justice of Peace, and what he may, or ought to do herein, either in, or out of the Sessions, these things are to be known.

That

That in the General Sessions (1) They may hear and determine all offences, against the common or Statute Law, about high wayes in Officers, by not doing of their duty about repair of them, or by them; or others, by not doing of their duty about the repair of them; or by the doing of any thing to hurt them by Nuisances, or otherwise. And here they may, as they have cause, make orders for what is within their Com- nufance, according to Law. And if otherwise, they will be void. As an Order was made to commit the Surveyors, till they payd in the mo- ney by them collected for the repair thereof; this order was ruled to be naught. For there was no power given to commit; and besides, they are to deduct 8d. in the pound. *Steele's Rep.* 399. where they may determine matters concerning Charitable Gifts for the making, keeping, or repairing of high wayes, Pavements, Streets and Caufies, (except gifts made to such uses, to any Colledge, Hall, Free-School, or Hospitall) and they may make orders for the right Employment of such Gifts; but the party grieved by it, may appeal into Chancery. They are to hear and punish the defaults of the Sur- veyors herein, by 14 Car. 2.

Appeal.

3. They may order the enlargement of a high way, and for that purpose, that two Justices shall view it, by 14 Car. 2.

4. They may here, where they judge the 6. dayes work sufficient to repair the wayes, re- strain the making of any Rate in that place, up- on 14 Car. 2.

About High-ways.

5. They may here enquire of the breach of any part of the Act of 2. and 3. *Ph.* and *M.* and set Fines on such as make default, according to their discretion. And thereof the Clerk of the Peace is to deliver the Indented Eftreats under his hand and Seal, (*viz.*) one to the Bailiff, or High Constable of the Liberty, and the other to the Constable and Church-wardens of the Parish where the default is made, by 2. and 3. *Ph.* and *M.* chap. 8. And these Eftreates are a sufficient warrant for the Bailiff, or chief Constable, to levie the same by way of Distress. And if no distress can be found, or the party pay not in 20. dayes after demand, he shall pay twice as much. These Fines and Forfeitures, to go to the amendment of the high wayes. And the Bailiff or high Constable, is to account unto the Constables and Church-wardens, and they may call him to an account before two Justices, upon 2. & 3. *Ph.* & *M.* And two Justices may commit him till he pay in his money.

6. They may here send a Warrant to the Surveyors, to levie by distress and sale of goods, the Forfeitures of all such persons as shall be convict before them, for casting Soil in the high-way out of ditches, and leaving it there, and for not scowring their ditches, and cutting down their bushes, or any other offence, upon the Statute of 18 *Eliz.* Chap. 10. And if upon this Warrant it be not levied within a year, then it seems, they may send to the Constables and Church-wardens to levie; for the Statute gives them power to levie it.

7. And

7. And so they have power there to enquire here, and determine all other of the offences named within 2. and 3. *Ph.* and *M.8. 5 Eliz.* ch. 13. 18 *Eliz.* chap. 10. 29 *Eliz.* chap. 5. *Co.* 13. 33. And now for the Justices Office.

What the Justice hath to do.

Out of the Sessions. 1. They are to allow, and to sign the Rates made by the Surveyors of the high-ways, for the amending thereof. And this any one Justice of Peace may do.

Out of the Sessions.

Sect. 6.

Sign the Rate.

2. They are to decide any difference that shall arise between the Surveyors, and any Workmen that they shall hire about wages for their work. And this any one Justice of Peace (not living in the same Parish) may do, upon 14 *Car. 2.*

Decide differences about wages for work.

3. So any difference between any man and them, about the digging and carriage of Gravel, or other materials for the high-ways, out of any mans several Inclosures. And this any two Justices may do, upon 14 *Car. 2.*

About pay for opening a pit.

4. So any that shall arise between them, and any Inhabitant of the Parish about a Rate upon him. And this any one Justice may do, upon 14 *Car. 2.*

About a Rate.

5. They are to view any part of a high-way, as the Justices in Session shall order them, whether it be fit to be enlarged, and how. And this any two Justices may do, upon 14 *Car. 2.*

Enlargement of a High way.

6. They are to allow, the Surveyors of one Parish to dig and rake Gravel, Chalk, Cinder, Sand, or Stones, in the waits or Commons of the neighbour-places, where they want in their own. And this any two Justices may do, upon 14 *Car. 2.*

To dig and rake Gravel.

Call Officers
to an Account.

7. Two or more Justices may call any Bailiff or Liberty, or high Constable of a Hundred, that have levied any Forfeitures by Estreats of Stewards of Leets, or by the Sessions, about the high way, and commit them to prison, till they pay the money in their hands, if they have any, unto the Constables and Churchwardens of the place, by 2. and 3. *Ed. 6. 8.*

Levie of Rates
and Fines, &c.

8. In 14 *Car. 2.* It is provided, That any two Justices may by Warrant under their Hands and Seals, give power to the Surveyors, by Distress and Sale of the parties Goods, to levie the Rate for the high wayes, and all charitable gifts for the amendment of the high wayes, & all the forfeitures of the Act of 14 *Car. 2.* not otherwise therein given, and all Issues to be forfeit, for not appearing to an Information or Indictment, to repair to the high-ways, or removing Nuisances therein. And all Fines and Amercements put upon any person, for not repairing of high-ways, nor otherwise disposed by this Law, by 14 *Car. 2.*

9. They may upon the complaint of any Parish, that the Surveyors of their high wayes doth refuse to account, examine it upon Oath; and if they find it true, commit the Surveyors that refuse, to prison, till they do account. And this any two Justices of the Peace may do, upon 14 *Car. 2.*

10. They may, where they see no cause to make a Rate for the high wayes, but that the six dayes work will be sufficient, forbid the making of a Rate. And this any two Justices may do, upon 14 *Car. 2.*

11. Any

11. Any one Justice of Peace may cause the high way to be freed of Trees and Bushes, according to the Statute of *Winchester*.

12. Also, any one Justice, may upon his own view, present to the Quarter-Sessions, any default in the high wayes. And this will be in the nature of an Indictment. As all the Fines upon 2. and 3. *M.* 8. and 5 *Eliz.* 13. are to be estreated by the Clerk of the Peace, levied by the high Constable, or Bailiff of Franchise, and payd over to the Constables and Churchwardens, and imployed to the repair of the high wayes: to which, the party indicted must answer, as upon the presentment of a grand Jury; and being found, any two Justices *quorum unus*, in the Sessions, may assess the Fine. So also one Justice may present any man for an offence by him done against any branch of 2. and 3. *Phil.* and *M.* chap. 8. and 5 *Eliz.* chap. 13. As the Constables and Churchwardens for not choosing of Surveyors, or not setting down the time of the 6. dayes work, or for not giving publick notice thereof in the Church. Or the Surveyors, for refusal to undertake the Office, or neglect about it, and in particular, for not making Presentment to a Justice of Peace, of such defaults as they find upon these Statutes. Or the Parishioners that do not attend to their dayes works appointed them, or such as suffer Nuisances in their grounds, hedges, or ditches, near to the high way; or the Bailiffs, or high Constables, for their neglect in the levie of the Amercements sent to them by the Clerk of the Peace, against offenders about the high-

high wayes, or for the not making of their Account, and the like. And this the Justice may cause the Clerk of the Peace to draw up, and being put in, it is of the same force, as if it were a Presentment found by a Grand Jewry.

13. Any one Justice may, and must, receive from the Surveyors, or other Officers, any Presentment that they will make and tender to him of any default, upon 2. and 3. *Phil.* and *M.* and 5 *Eliz.* 13. And this Presentment he is to certify to the next Sessions, under pain of 5 l. The Justices are to enquire upon it, upon 5 *Eliz.* ch. 13. And being found set such Fine upon the offender, as any two of them, *quorum unus*, shall think fit, by 5 *Eliz.* chap. 13. And the Fines here assessed, are to be estreated by the Clerk of the Peace, levied, accounted, and employed, as by 2. and 3. *Ph.* and *M.* 8. is provided, by 5 *Eliz.* chap. 13.

14. Any one Justice might have enlarged a way, and cleared it of Trees and Bushes; but now nothing is done herein out of Sessions, upon the Statute of *Winchester*, 1 *Ed.* 3.

15. Four Justices *Quorum unus*, and no less, may enjoin the County to amend a Bridge, or the high way within 300 foot of the Bridge, by a Rate on every man, which must be made by them with the Constable, or two of the Inhabitants of the Parish, and not otherwise, in Parchment in every Hundred, under the Justices Seals, and then delivered to the Collectors, whom they may appoint; and also Overseers of the work. And for the Rate, the Collectors may distrain *Ex officio*, in any place within the

About a
Bridge:
Rate

Sect. 8.

the Hundred. And this one of them may do by the consent of the other. But no such Rate is to be made, but in case where it is not known, who ought to repair it. And these Justices may as name Officers, so order them, and allowances for their pains in the work, and call them, their Executors, or Administrators to an Account for the money. But the fittest place and way for the doing of this work, is in the Quarter-Sessions. 5 Eliz. chap. 13. 18 Eliz. 9. 3 M. 8. Co. 2. part Instit. 8. 705.

In the Sessions;

Call to an Account.

16. Any two Justices *quorum unus*, may enforce, and take the Account of an Officer that hath in his hands any of the Forfeitures, upon 2. and 3. Ph. and M. about high ways, and to imprison them who are found upon account to have money in their hands; but if in this case, the Officer be obstinate, it is best to order him in the Sessions. See Steeles, Rep. 399.

17. No *Certiorari* to remove any Information, Indictment, Presentment, Order, or proceeding about high ways, is to be allowed in any Sessions, unless the party indicted, &c. shall with such Sureties as the Court shall think fit, enter into a Bond of 40 l. with condition to pay the prosecutor the full Costs and Damages, within a moneth after the party is convicted, by 14 Car. 2. See Pophams, Rep. 193.

18. But for the repair of a Bridge, or highway within 300 foot of it, see more 5 Eliz. chap. 23. 18 Eliz. chap. 9. and Co. 2. part Instit. 701. 22 H. 8. chap. 5. By which it is provided:

In the Sessions;

(1) That 4. Justices *quorum unus*, may hear and determine the annoyance of Bridges, and of the

the high way adjoyning within 300 foot of them, and charge such as should repair them by sending forth process, and setting pains as they think fit.

(2) That when it cannot be known who should repair it, that it be done by the County Ryding, or Corporation where it is. And if it be within two Precincts, the Inhabitants shall repair their several parts respectively.

(3) That for this purpose, these Justices may with the help of the Constables, or other able men of the Parishes, make a Rate as is above-said, and cause money to be levied to do it, appoint Surveyors of the work, give allowances for the work, &c.

19. See for the Repair of Bridges at *Rocheſter* in *Kent*, 18 *Eliz.* 17. 27 *Eliz.* 75. Within a mile of *Oxford*. 18 *Eliz.* 20. over *Tosse* in the County of *Glamorgan*. 23 *Eliz.* 11. *Newport* and *Carlion* Bridges. 39 *Eliz.* 23. at *Wilton*, 39 *Eliz.* 24. *Edon* and *Presburg*. 43 *Eliz.* 16. *Chepstow* Bridge. 3 *Jac.* 23. *Upton* Bridge. 3 *Jac.* 24.

20. That no travailing Wain, Cart, or Carriage, wherein any Goods or Wares are, or that shall be carried or drawn for hire (other than the Carts and Carriages employed in and about Husbandry, manuring of Lands, carrying of Hay, Straw, Corn unthreshed, Cole, Chalk, Timber for Shipping, materials for Building, Stones of all sorts, or such Ammunition, or Artillery, as shall be for the Kings Service) may travail, or go in any high way or Road, with above seven Horse beasts, whereof six to draw in pairs: and

not

not with above 8. Oxen, or 6. Oxen, and two Horse beasts. Nor shall at any time carry above 2000 weight, between the first of *October*, and the first of *May*. Nor above 5. Quarters of Wheat, Meal, Meslin, Rye, Pease, Beans and Tares. Nor above 8. Quarters of Barley, Malt, or Oats, and after that proportion. Nor may any Wagon, Wain, Cart, or Carriage for the uses aforesaid be used, the Wheels whereof are lesse in bredth then 4. Inches in the Tire, under pain of 40 s. to be lost to the owner of the Wain, Carriage, and one third part to the Surveyors, to the use of the high wayes, another third part to the Overseers of the poor, to the use of the poor, and the other third part to the prosecutor. To be levied by distress of all or any of the Horse-beasts or Oxen. And to be distributed by the Constables, Overseers of the poor, or Surveyors of the high way, or any one of them, and the penalty not payd within 3. dayes after the distress taken, that then he that distains, may sell and pay himself, rendring the overplus to the owner, charges of keeping and selling deducted upon 14 *Car. 2.* But no power being here given to either of these Officers to distain, it may be questionable; whether they may justifie the taking of them. And yet power is given to them afterwards to sell the distress, if the money be not payd. But by another clause afterwards, it seems it may be done by a Warrant under the Hands and Seals of two Justices. There is a speciall provision about *Foot-Bridge* in *Laycock* in *Wilt.* by 14 *Car. 2.*

Forfeiture, how recoverable.

A Provision for the Farmers of Iron Works in *Surrey, Sussex, and Kent*. So for *Stratford-Bridge*, in the County of *Middlesex*, by 14 Car.

2.

There is a provision for *Chepstow-Bridge*, by 3 Jac. chap. 23.

For the High wayes in the wild of *Kent* and *Sussex*, by 14 & 15 H.8. chap. 6.

For *Huntington-Lane* near to *Chester*, by 37 H.8. chap. 3. In *Sussex*. 39 Eliz. chap. 19. 26 H.8. chap. 7. 15 H.8. chap. 6. Of the Causey between *Dorchester* and *Sherborn*, 1 Mar. Parl. 2. chap. 5. Of the *Kings-Ferry* in *Kent*. 18 Eliz. chap. 10.

The Act of 14 Car. 2. to continue till the first Session of the next Parliament; save onely for the Power to make Rates, which is to continue for 3. years.

Seft. 9.
The Highways
and Streete, in
and about the
City of
London.

For the ordering of the High wayes, Streets, Pavements, Gutters, and Sewers, in and about *London*, these things are to be known.

1. That there are Commissioners to be appointed under the Great Seal of the King, to look to them.

2. These Commissioners may direct, and order the pulling down, new making, or alteration, or reparation of any thing for the amendment thereof, according to the directions, and with the Limitations laid down in the Statute. And for this, they may enlarge, or streighten the passages, erect, or take down any Building, &c. as they see cause.

3. For the raising of money to do their work, It is provided, that Hackney Coaches may not be

be used, but by Licence of Commissioners appointed of purpose by the King for it, and a yearly payment for the same, which shall go to this use, That a small sum of money (set down by the Act) be payd upon every Load of Hay and Straw, to be sold in such and such places in *London*. That so much be payd by every Householder, to carry away the dirt and filth from the doors, &c.

4. These Commissioners are to order and direct the Scavengers and such like Officers, and others, for the carrying away of the dirt and filth in the Streets. And to see that every one be made to sweep, and cleanse the Street at his own door twice a week. That none throw any Sea-coal Ashes, dirt, or other filth in the Street. That every Householder next the Street, hang up lights in the winter time. And they that observe not the Act in these things are to be punished by the penalties therein set down. Other provision under penalties there are in the Statute. For which, see the Statute it self.

Every Justice of Peace within *London* and *Westminster*, within his respective limits, may upon his own knowledge and view, or the Oath of one Witness, convict the offender of most of the offences within the Law, and cause the forfeiture appointed for the same, to be levied by distress and sale of Goods. But for all this, see 13. and 14 *Car. 2.* at large. See some Acts for paving of Streets in *London*, 24 *H. 8.* chap. 11. 32 *H. 8.* chap. 17. 35 *H. 8.* 12. 13 *Eliz. 23.* 1 *Jac. 22.*

Out of Sessions

CHAP. XX.

About Constables of Hundreds and Parishes.

Sect. 1.

FOR the Election, swearing, removall, and settlement of this Officer, wherein the Justice hath by his Office a Power, and wherein some Questions have been moved; See my Survey of the Justices Office, chap. 3. Sect. 11. we shall here onely make these additions thereunto, the Resolutions of the Judges in the Case.

In and out of
Sessions.

1. That where a Leet is orderly kept, and there is an orderly election of this Officer, from time to time; and no neglect, or miscarriage therein; there the Justices are not in, nor out of their Sessions, to meddle with the Choyce, or removall of this Officer. And if Justices shall in this case intermeddle, as to remove a Constable settled by the Leet, according to the Custom of the place, the Leet may put him in again, and the Kings Bench must decide the difference. And the power used by Justices herein, hath been always questioned. *Trin. 9. Jac. B. R. Stiles. Rep. 362. Bulstr. 1. part 174.* But it is agreed, That if there be a neglect or miscarriage in a Court-Leet herein, that it doth not choose a Constable, or doth not give him his Oath; or it choose an unfit man, or the like; there

there the Justices at their Sessions, may interpose and supply it. *Stat. Rep. 71. Mich. 22. Car. B. R.*

2. It hath been resolved by all the Judges. 1633. Sect. 29. 30. That if a Constable dye, or removed, the Leet, if it be near, is to supply the place. If otherwise, it may be done by the Sessions; if that be to far off, by the two next Justices. And that if an unfit man be chosen to the place, the Sessions may help this. And that the Lord by his miscarriage herein may lose his Leet. But now this point is settled by the new Act of 14 Car. 2. By which it is provided, That if such an Officer of a Parish die, or remove, any two Justices may make and swear a new one, to continue till the Leet, or the Quarter-Sessions, and then the Steward of and in the Leet, or Justices, are to choose and swear another, or approve of him that is chosen. And that if any such Officer shall continue in his Office above a year, that the Justices at their Quarter-Sessions may discharge him, and put another in his place, till the Lord of the Leet shall keep his Court and place in another.

In and out
of Sessions.

In the Sessions.

3. That the Justices are to make the high Constables of Hundreds, where there is not a Leet for the Hundred that hath constantly done it. *Trim. 9 Jac. B. R.*

4. That an Attorney is to be privileged by his Office, from the serving of this Office. *Croo. 1. part 283.* So also an ordinary Servant of the Kings. But not a Servant extraordinary. *Resol. Judges. 1633.*

Sect. 2.

Y

5. That

About Constables of Hundreds, &c.

5. That if one chosen to this Office, refuse to take his Oath, the Kings Bench may send a Writ to him, to compel him to it; or he may be Indicted, or Imprisoned for his contempt, if he have not some legall excuse for it, as that he is out of the Parish, or Liberry, and ought not to serve there, or the like. *Croo. 1. 409.*

6. That a Custom in a Parish or Town, that this Office shall go by the House, is not good. But a Custom that every man sufficient in the place, shall serve the Office himself, or find a sufficient man to serve it, may be good. *Croo. 1. 283. Steels. Rep. 262.*

7. That he that is chosen to this Office, must be *persona idonea & habilis*, or he may be removed. *10 Eliz. 4. 18.*

8. That a Constable of one Town, may not execute his Office in another Town, wherein he is not Constable.

9. That a Constable of a Hundred, or of a Parish, may not make a Deputy to execute his Office. But a Deputy may do under him, many parts of his Office in his name, so still as the Constable must answer for it. *Resol. of Judges. 1633. Sect. 28. Bulstr. 3. part 77, 78.*

CHAP. XXI.

About Cloth, and Clothiers, and Drapery.

FOR the Justices Power, and Office about Cloth. To search for Tenters, &c. To sell faulty Cloth, and divide the money, to make Searchers and Overseers of Cloth; to punish Carders, Weavers, Sorters, Spinners, that imbecil, or detain Wooll or Yarn, and to punish the Clothier, that will not pay his Workmen their wages, and against a Dyer that doth use Logwood. And what the Justice may do herein, within or without the Sessions. Upon the Statutes of 39 Eliz. chap. 11. 20. 43 Eliz. chap. 10. 21 Jac. chap. 18. 28. 4 & 5 Phil. & M. chap. 5. 4 Jac. chap. 2. 4 Ed. 4. chap. 1. 5 Ed. 6. chap. 6. 7 Jac. chap. 16. 1 Jac. chap. 6. 1 Eliz. chap. 12. See my Survey of the Justice Office. chap. 3. Sect. 10. By 4 Ed. 4. 1. It is provided, 1. That the Clothier shall pay to his Work-folks, their Wages, in ready money, and not in Wares, as formerly, in pain to forfeit to them treble damages, and shall deliver them Wooll, according to due weight, in pain of 6 s. 8 d. for every default. 2. That every Fuller in Fulling, Rowing, or raseling of Cloth, shall use Tasels, and not Cards, in pain to yield double damages to the party grieved. 3. That

Logwood.

In and out of Sessions.

every Justice (out of a Corporation), and, in a Corporation, every Head-Officer, or Officers, where no Master is to hear and determine the Complaints, concerning these two things; and for the damages, they may commit the offender to prison, till the party grieved be satisfied. And the said Justice, and Officers, have power at the instance, of any other person, to enquire after, and punish such offenders, by inflicting three shillings four pence upon them, &c. But no way of Conviction is set down; and therefore nothing is to be done out of Sessions.

Justices, and other Head-Officers, are in their Precincts, to appoint and swear Officers, for the due observing of 3. and 4. *Ed. 6. 2.* concerning the well-ordering of Cloth, and they are to make search for bad Cloth.

CHAP. XXII.

About Captains and Souldiers. Upon 18 H. 6. 19.
7 H. 7. 1. 2. 3 H. 8. 5. 43 Eliz. 2. 3 H.
6. 1.

1. **I**T is Felony (for a Souldier retained, and having taken Press-money, to serve the King in his Warres) not to go with, or to depart from, his Captain or Colours, without License, or be an idle Souldier, or Mariner, and wander about idly, and will not set himself to work, or go to the place of his birth, or last dwelling. 39 Eliz. 17. And this upon 7 H. 7. gives the power to hear and determine the offence of Felony to the Justices of Peace, where the offence is not all done in the County where the offender is taken; and it is doubtfull, if the Justices of Oyer and Terminer may meddle with it, for they can try nothing but what is done in the same County. *Hutton's Rep.* 135. 18 H. 6. 19. 3 H. 6. 1. 2 & 3 Ed. 6. 2. 7 H. 7. 2. So if he counterfeit his Captains Testimonial, 39 Eliz. 17.

2. If a Captain have not the full number of his Souldiers, or shall not pay them their due wages within 6. dayes after he shall receive them, he doth forfeit all his Goods and Chattels, and shall suffer Imprisonment, by 7 H. 7. 1.

3. Officers may arrest such Souldiers, who shall within their time, come on this side the Sea without Letters Testimonial of their Captain,

and retain them till the cause of their return be tried, by 18 H. 6. 19.

In the Sessions.

4. The Justices in their Sessions, may hear and determine these offences, upon these two Statutes before named.

Out of Sessions

5. By 2 & 3 Ed. 6. chap. 2. It is provided, That if a Souldier escape from the Army, without punishment; for making away of his Horse, or his Arms, he may be imprisoned without bail, till he satisfie the party at whose charge he was sent out, by any Justice of those parts where he is apprehended, unless he bring sufficient Testimony from the Commander, that the Horse or Arms were otherwise lost, or imployed in the Kings Service. And this is all that the Justice hath to do herein, upon that Act.

6. By 43 Eliz. 3. It is provided, for relief of poor maimed needy Souldiers and Mariners,

1. That a Rate be set upon the County for their relief, which see in *Poor*. chap. 17. and *Rates*. chap. 18. 43.

Treasurers for
maimed Souldiers and Mariners.

2. That a prest Souldier or Mariner, coming into *England*, is to go to the Treasurers of the County where he was prest: if not prest, to the Treasures of the County where he was born, or last dwelt for 3. years at his choyce; or if not able so to do, to the Treasurers of the County where he stands. And if he bring with him a Certificate, under the Hand and Seal of the chief Captain under whom he served, of his hurt and services, and this allowed under the Hands of the Muster-master, or Receiver General of the Muster-Rolls, or the Hand of one of them, the Treasurer may give him Relief till the Sessions.

Self. 2.

Pensions.

Then

Then the Justices may there allow him a Pension, not above 10 l. if he hath not been an Officer, under a Lieutenant 15 l. to a Lieutenant 20 l. But a bare Certificate of the Commander, without allowance of the Muster-master, in case where he doth arrive farr from the place where he is to be relieved; there the Treasurers may give him relief, and a Testimonial, whereby to passe from Treasurer to Treasurer, till they come to the place required. And of all this, the Treasurers are to give an account, whar, and upon what Certificate they do pay, and what and why they refuse to pay to any that desire it. The Just. may in Sessions time, fine a Treasurer that wilfully refuseth to give Relief in these Cases. And this any two of the Justices appointed by the rest, may levie by distress and sale of goods.

3. The Corporations have the same power, as the Justices, and the Justices are not to meddle therein.

Any one Justice may upon proof (which may be by one Witnes) commit to prison Souldiers who purloin Horses, Arms, or Armour, till they make satisfaction to the owner thereof. 2 Ed. 6. 2. One Justice may license them after their landing, to go to the place they would go. 39 Eliz. 14. But Musters here, it is after in this piece, upon 7 H. 7. 1. and *Huttons. Rep.* 134. where these things are resolved by the Judges.

1. That where one receives Press-money, to serve the King in his Warre, and is in the Kings wages, and with others delivered to a Conductor, to be brought to the Sea side, and then he departeth; that this is Felony, for the Cap-

rain here is a Conductor within the Statute, being such a one as doth bring them to the Sea side onely. That 7 *H. 7. 1.* extends onely to such Souldiers as are pressed to serve the King upon the Sea, or beyond Sea. And the Act of 3 *H. 8.* adds only the Land here.

If any duly required to muster, shall absent himself, or not bring with him his best Arms, he shall suffer 10 dayes Imprisonment without Bail, unless he pay 40 l. to the King, by 4. and 5. *M. 3.*

5. If any Officer having authority to muster, or take up Souldiers, take any reward to discharge, or spare any Souldier, he shall forfeit ten times so much as he takes, 4 & 5 *M. 3.*

6. If an Officer, when he hath licensed a Souldier, to depart, shall not pay him his wages, Coat, and Conduct money, he forfeits ten times so much as he takes; and to the Souldier, three times so much as he should have payd him, 4 & 5 *M. 3.* And these last offences, by 4 & 5 *M. 3.* may, during the time of the Service, be punished by the Chief Commander. But afterwards, they may be punished by the Justices, who upon Conviction, may send him to prison, till the forfeitures be payd. And they have power of *Oyer* and *Terminer* of the offences, the which they must (as it seems) do in the Sessions, and may not do any part of it out of the Sessions, by 4 & 5 *M. 3.* See more of this, in chap. 16.

CHAP. XXIII.

About Cordwainers, Curriers, Tanners, and Leather, upon 1 Jac. 22.

1. **N**One shall gash any Hide, on pain of 20 d. nor water them, but in *June, July, and August*, nor put them to sale, being putrified, on pain to forfeit for every Hide so watered, or put to sale, 3 s. 4 d. Sect. 1.
Gashing of
Hides, &c.
2. None shall kill any Calves, under five weeks old, on pain of 6 s. 8 d. for every Calf so killed, 1 Jac. 22. Calves.
3. No Butcher shall exercise the mystery of a Tanner, on pain of 6 s. 8 d. for every day he so continues both Professions, 1 Jac. 22. Butcher, or
Tanner.
4. And none shall be Tanners, but such as have served 7 years as Apprentices, or hired Servants in that Trade; or the Widow or Children of a Tanner, having a Tan-fat left them, and having been brought up in that Profession, by the space of 4 years, on pain to forfeit all the Leather they Tan, or the full value thereof. In the Sessions,

Who may be a
Tanner.
5. None that useth the Cutting or Working of Leather, shall be a Tanner, on pain to forfeit all the Leather he Tans, or the value thereof.
6. None shall buy any rough Hides, or Calf-Skins in the hair, but such as do, or may lawfully Tan them (except Salt-Hides, for the necessary Hides to be
bought.

cessary use of Ships) on pain to forfeit them, or their just value.

Fore-stalling
of Hides.

7. Nor shall any fore-stall Hides, but buy them in open Fair or Market, except of such as kill Beasts for their own provision, on pain to forfeit for every Hide, otherwise bought, 6 s. 8 d.

Leather to be
bought.

8. None shall buy any Tan'd Leather unwrought, but onely such as will and shall convert the same into made Wares.

London.

9. This Act shall not restrain Artificers from buying Tan'd Leather every *Munday* at *Leaden-Hall*, to be converted into made Wares, being first duly searched, sealed, and registred, as hereafter is limited: Nor Girdlers or Saddlers, from selling their Necks or Shreds of Tanned red Leather.

Secl. 2.
How the Tanner
must order
his Hides.

10. The Tanner that over-limes his Hides, or useth in his Tanning any thing, save Ash-Bark, Oak-Bark, Lapwort, Malt, Meal, Lime, Quiver-dung, or Hen-dung, or suffers them to be frozen, or parched with Fire or Sun, or rains such as are rotten, by long lying, or otherwise; or continues not utter-sole Leather 13 Moneths in the Woozes, and upper Leathers 9 Moneths; or doth negligently work his Hides in the Woozes, nor renewing and strengthening them, as often as need shall require; or doth work them in any other sort, then is by this Statute limited, shall forfeit every Hide so tanned and put to sale, or the full value thereof.

In the Sessions.

What Leather
must be
bought and
sold.

11. No Tanner shall by mixtures raise any Hide for sole Leather, which shall not be fit for that use, on pain of forfeiting the same.

12. None

12. None shall put to sale any Tan'd Leather, red and unwrought, but in open Fair or Market, unless the same hath been searched and sealed in some Fair or Market before; nor shall any offer to sell any such Leather, before it be searched and sealed, on pain to forfeit for every Hide, otherwise put to sale, 6 s. 8 d. and for every dozen of Calf-Skins, or Sheep-Skins 3 s. 4 d. besides the Hides and Skins themselves, or the full value thereof.

Leather to be searched and sealed.

13. None shall put to sale any Leather insufficiently tan'd or dryed, on pain to forfeit the whole, or at least so much as shall be so misused.

Leather to be sold,

14. No Tanner shall hasten the Tanning of his Leather, by giving it unkind heats with hot Woozes, or otherwise, on pain of 10 s. and to stand upon the Pillory 3 days, in the next Market.

How Leather is to be made ready.

15. None shall buy or ingross Bark, to the intent, to sell the same again, on pain to forfeit it, or the value thereof: Nor shall any fell Oak-Trees, apt for Barking, where Bark is worth 2 s. the Cart-Load, (Timber for the necessary repair of Houses, Ships, and Mills excepted) but onely betwixt the first of April, and last of June, on pain to forfeit the Trees otherwise felled, or the double value of the same.

Ingrossing of Leather.

16. Purveyors of Trees, for the King's use, shall sell them onely in Barking-time, (except for the present repair of the King's Houses or Ships) and shall take no more thereof from the Owners, then what may serve the King's present occasion, on pain to forfeit to the party grieved

Purveyance.

grieved, for every Tree; and for the Lop or Top-bark of every Tree taken, contrary to this Act, 40 s. And it shall be lawful for the Owner, to retain the Lop, Top, and Bark of every such Tree. See the New Law, 14 Car. 2.

Sett. 3.
In the Sessions;
Hides how to
be curried.

Gashed.

17. A Currier shall not currie a Hide or Skin, not sufficiently tanned and dryed, and that in his own house, situate in some Corporate or Market-Town, and not elsewhere; nor shall gash, or otherwise spoil, or impair them; but work them sufficiently in all points, on pain to forfeit for every Skin or Hide so spoiled (otherwise then by gashing, in shaving them) 6 s. 8 d. besides the value of the Skin or Hide; and for gashing them, to forfeit to the party grieved, twice so much as he impairs them thereby.

Sett. 4.
In the Sessions,
How the Trade
is to be order'd
in and about
London.
Searching of
it, where it
must be.

18. No Artificer within London, or three miles distance from it, shall put any Leather to be curried, save onely to some person free of the Company of Curriers in London, on pain to forfeit the same, or the value thereof.

19. None within the Jurisdiction of London, shall use or put into made Wares any curried Leather, before the same be searched and sealed, on pain to forfeit for every Hide or Skin, 6 s. 8 d. and also the value of every such Hide or Skin.

A Currier
may not be a
Tanner.

20. A Currier shall not use the Art of a Tanner, Cordwainer, Shoo-maker, Butcher, or other Artificer, which useth to cut Leather, on pain to forfeit for every Hide or Skin he currieth, during that time, 6 s. 8 d.

21. No Currier (sufficient stuff being tendered him) shall refuse sufficiently, to curry Leather within 8 days in Summer, & 16 in Winter, after he shall, or may take it in hand, on pain to forfeit for every Hide, or piece of Leather, not Curried accordingly, 10 s.

Currier must curry for others.

22. The Wardens of the Company of Curriers (or Officers by them appointed) shall within one day, after request made unto them, search and seal Leather curried; for which the Currier shall pay after the rate of one penny, for every Dicker of Hides, and as much for every Dozen of Calf-Skins; and shall forfeit for every Hide, not searched and sealed as aforesaid, 6 s. 8 d.

Searching of Leather.

23. Shoe-makers shall make their Boots, &c. of good and sufficient Stuff, sew them well, and not put them to sale on *Sundays*, on pain to forfeit for every such default, or offence, 3 s. 4 d. and also the full value of all Wares, otherwise made or sold.

Shoe-makers to make good Ware.

24. The Masters and Wardens of the Company of Shoe-makers, Curriers, Girdlers, and Sadlers, within the Jurisdiction of *London*, or the more part of them, shall once every Quarter, (or oftner, if need require) make search and view of all Wares made of Tan'd Leather, on pain to forfeit 40 s. for every years default, to be divided betwixt the King and the Prosecutor; and shall also have power, to seize all insufficient Wares found upon search. The said Masters and Wardens shall onely search the Wares of such as are of their own Professions; and Coach-makers shall be under the survey and search

Wardens must search Leather.

search of the Company of Sadlers.

Stat. 5.
In the Sessions.

Searcher of
Leathers to be
made.

Corporations.

Tryers of Lea-
ther.

25. The Maior and Aldermen of *London*, shall (within the said Jurisdiction) and upon the like pain of 40 *s.* to be employed as aforesaid, choose and swear, and expect men out of some of the four Companies aforesaid, to be Searchers and Sealers of all Tan'd Leather there; whereof one shall be assigned to keep the Seal.

26. Head-Officers, in Corporate and Market-Towns, Lords of Liberties, shall yearly, in all other parts of the Kingdom, upon like pain of 40 *s.* to be employed as aforesaid, appoint and swear 2, 3, or more, honest and skilful men, to be Searchers and Sealers of Leather, who shall have power to seal sufficient Wares, and seize and return insufficient, till tryed by Tryers hereafter appointed by this Act.

27. There shall be appointed six Tryers of insufficient Leather, and Leather-Wares, which shall be seized within the said Jurisdiction of *London*; and when any such Leather or Wares are seized within any other Jurisdiction, the Chief Officer, or Lord of the Liberty, or his Deputy, shall cause Tryal thereof to be made, by the Oath of 6 honest men, upon some Market-day, and within 15 days after such seizure made.

28. The Lord Maior of *London*, and the Head-Officer, and Lord or Deputy aforesaid, shall appoint Tryers in their several Jurisdictions, on pain of 5 *l.* to be divided betwixt the King and the Prosecutor; and these Tryers shall do their duties in that Office, without delay,

lay, on pain to forfeit, for every default, 5*l*.

29. Four of the Tryers in *London* shall be yearly changed, and other four placed in their Rooms; and none shall continue in that Office there above two years: And if any happen to be Tryer two years together, he shall not be chosen again within 3 years after, on pain to forfeit, for every moneth he continues otherwise in that Office, 10*l*.

Tryers to be changed.

30. No Searcher or Sealer of Leather shall refuse, within convenient time, to do his Office, or allow any Wares, which are insufficient, on pain of 40*s*. and shall not take Bribes, or exact more then due Fees, on pain of 20*l*. Nor being lawfully elected, shall refuse the Office, on pain of 10*l*. All Red-Land Leather, which shall be brought within the aforesaid Jurisdiction of *London*, shall be carryed to *Leaden-Hall*, before it be housed, and there searched, sealed, and registred, by the Officers aforesaid: for which, if it were sealed before (out of the said Jurisdiction) they shall take half Fees onely.

Searchers Office.

31. None shall sell any Land-Leather, within the foresaid Jurisdiction of *London*, before the Officers there have searched and sealed it, on pain to forfeit the same, or the value thereof. None shall withstand the Searchers and Sealers, in the due execution of their Office; nor the seizing of insufficient Wares, on pain of 5*l*.

Leather to be sealed, before sold.

32. The abovesaid Searchers and Sealers, shall register all Land-Leather, sold in Fairs or Markets,

Searchers to
seal Leather
before sale.

Markets, together with the prizes thereof, and the names and dwelling-places of the Buyer and Seller, (being thereunto required by the said Buyer or Seller) taking as well of the Buyer as Seller, 2 *d.* for every 10 Hides, Backs, or Buts of Leather, and 2 *d.* for every 6 dozen of Calf-Skins, and Sheep-Skins, and no more. None shall sell any Tanned-Leather, (red and unwrought) before it be registred, on pain to forfeit the value thereof.

33. None shall buy any Tanned Leather, before it be searched and sealed; nor carry it out of the Fair or Market, before it be registred, on pain to forfeit the same, or the value thereof.

Sect. 6.
In the Sessions,
Currier must
order his Leather duly.

34. The Currier within the Jurisdiction of London aforesaid, which currieth not his Leather sufficiently; and every other Artificer there (using Tanned and Curried Leather) which putteth into his Wares Leather insufficiently Tanned or Curried, shall forfeit for every such default the said Wares, and the just value thereof.

Sale must be
openly.

35. No such Artificer shall sell any Wares, but in open Shop, Fair, or Market, where due search may be made, on pain to forfeit the Wares otherwise sold, and 10 *s.* for every such offence.

Disposal of the
Forfeitures.

36. The sum of moneyes forfeited, shall be divided into two parts; whereof the King shall have one, the Prosecutor another; and the City, Corporation, or Lord of the Liberty, the third.

In London.

37. The value of the Wares forfeited within the Jurisdiction of London, after Praisment, shall

shall also be divided into three parts; whereof one shall be given to the Seizor; another to the Chamber of *London*; and the third to the Poor. And in all other places, one third part to charitable uses; another to the Head-Officer, or Lord of the Liberty; and the third to the Seizor, or Seizors, for his or their pains.

38. None shall buy any forfeited Wares, to sell them again; on pain to forfeit for every parcel thereof, 3 s. 4 d. Buy to sell again.

39. This Act shall not prejudice the Authority of the Universities; so that their Officers observe the provision of this Act, under the Penalties therein contained. Universities.

40. The Hides or Skins of Oxe, Steer, Bull, Cow, Calf, Deer, Goats, or Sheep, being tanned or tawed, or salt Hides, are reputed Leather, within the letter of this Statute.

41. Justices of Assize, Gaol-Delivery, and Peace, the Maior of *London*, or Head-Officers, within their several Precincts, have power to hear and determine these offences. The power of the Justices of Peace.

42. This Act shall not extend to *Wales*. Wales.

43. If any Customer, or other such Officer, having notice of the transporting Leather, do not use his best endeavour to seize it; or, being transported, do not disclose it within 40 days, shall forfeit for the first default 100 l. and for the second, lose his place. And every such Officer, for making a false Certificate of the arrival of any Leather, shall also forfeit 100. pounds.

44. This Act shall not extend to *Scotch* Hides, brought to *Berwick*.

Z

46. Li-

About a License and Testimonial.

45. Licenses to dispence with the Offences prohibited by this Act shall be void. See *Croo.* 1. 426.

46. The Justices of Peace have nothing to do upon the Laws of 27 *H.8.* 14. 5 and 6 *Ed.6.* 15. 1 *Mar. Parl.* 2. 8. 5 *Eliz.* 22. 18 *Eliz.* 9. about these matters. Nor upon 4 *Jac.* 6.

CHAP. XXIV.

SECT. I.

About a License and Testimonial.

Out of Sessions

First, That Justices may give out of Sessions, to Mariners or men that suffer Shipwrack; to Labourers to go to work in another County at Harvest; to license Servants, to depart out of their Masters service; to license a fined Recusant, to go about some special business; to license Poor, to travel to *Bath* or *Baxton*; to Church-wardens and Overseers, to set up a Trade. See my *Survey of the Office*, Chap. 3. Sect. 30.

2. The Justices in their open Sessions, may license married men, and Householdors, of 30. years of age, to be Badgers, Laders, Lidders, Carriers, Buyers, or Transporters of Corn, Grain, Butter, and Cheese, if they have dwelt in the County 3 years before, under the Hands and Seals of 3 Justices, (*Quorum nunc*) at the least,

least, for one year from the date of it, by 5 *Eliz.* Chap. 12. There they may license the Transportation of Grain, as they think fit, upon 13 *Eliz.* 13. But these Orders, for this Licence, must be approved of by the King, or his Council.

3. So to transport Grain or Cattle, from Port to Port, by a Drover; or to buy and sell Victuals, and not to forestal, and by a Badger. The Justice may, out of Sessions, perhaps give Licence, upon 5 and 6 *Ed.* 6. 14.

4. One Justice may license a Souldier, at his landing, to pass to the place he would go, 39 *Eliz.* 14.

Presidents of Licenses.

W. S. and *J. S.* two of the Justices of the Peace, &c. Know all men by these presents, That we do hereby license *J. M.* of &c. to keep a Common-Alehouse in *L.* in the house there where he now dwelleth, for one whole year next ensuing the date hereof; so that he do not, during that time, suffer any unlawful Games to be used, nor any evil Rule or Disorder to be done in the same house. Dated &c.

So to brew and sell Beer, and keep a Common-Alehouse, &c.

J. S. A sturdy vagrant Begger of Low Personage Red-hand, &c. and about 20 years old, was this first day of *May*, openly whipped at *S.* in the said County, according to the Law, for a

About License and Testimonial.

wandering Rogue, and is assigned to pass forthwith from Parish to Parish, by the Officers thereof, the next straight way, to *P.* in the County of *S.* where (as he confesseth) he was born, or dwelled last for ene whole year, if the case be so; and he is limited to be at *P.* aforesaid, within ten days now next ensuing at his peril. Given at *S.* under the Hands and Seals of *H. S.* Esq; one of &c. and *J. D.* the Constable of *S.* aforesaid.

W. S. &c. our &c. To all Constables, Tything-men, &c. Forasmuch as I am credibly informed, that *J. S.* the Bearer hereof, of low personage, &c. hath been at Sea; and there the first day of *May* last suffered shipwrack, and hath not wherewith to relieve himself in his Travail, to the place of his Birth, (or last dwelling): These are to desire you to suffer him to pass the next way to the said place; where he is limited to be, within 40 days next after the date hereof; and not to trouble, but rather to relieve him.

The like may be for a poor Souldier.

W. S. and *J. S.* two of the Justices, &c. To all &c. The Bearer hereof, *J. S.* of &c. having (shewn the cause of his Travail) desired our Testimonial or License, for his safe Travail to the City of *B.* (shew whither he is to go) wherefore we (as much as is in us) do License him to travel the direct way from *H.* in the County of *G.* to the said City; so as his Journey be not continued longer than 20 days next after

after the date hereof; and pray you to suffer him to pass in peace, so as he demean himself orderly.

And by these a Testimonial may be made for other things; As for a Labourer in Harvest time, to go into another County to work; or a Servant departing at the end of his year.

SECT. II.

A Certificate.

1. **A** Certificate of the Presentment, or Verdict of the Jury, may be made into the Kings-Bench; the like may be made of the Record of a Force, viewed by the Justice.

2. These Certificates, (and the like) may be made by the Justice of Peace, by way of a Letter, inclosing therein the Presentment of the Jury, or the Record of the Justice, except the same be removed by *Certiorari*. The Forms hereof, see *Fitz. Nat. Brev.* 242. &c.

3. Or the Justice of the Peace may deliver the same into the Kings-Bench, with a *Certiorari*, he being a Judge of Record.

4. It may be done on the back of the Writ thus: *I W. S. &c.* one of the Justices of the Peace of the Lord the King in the County of Gloucester, the tenor of the security of the Peace, of which there is mention in this Writ, or

A Certificate.

whereof there is mention herein) to our said Lord the King, into his *Chancery*, under my Seal distinctly and openly, do send, as appeareth in the Schedule to this Writ annexed. Then write the Recognizance *verbatim*. And that the first day of *May*, &c. came before me, &c. In witness whereof, I the said *W. S.* have put to my Seal. Dated &c. [And let him set his Seal, and then file all this to the back of the *Certiorari*. Write upon the back of the *Supplicavit* thus: *The Execution of this Writ appeareth in the Schedule to the Writ annexed*. And put his name to it.]

Then the Schedule may be thus, and filed to the back of the Writ: I *W. S.* &c. certifie in the *Chancery* to our Lord the King, That I, by vertue of this Writ (to me first delivered by *M. B.* in the Writ named) caused to come before me the first day of *May*, *T. R.* in the same Writ named; and have compelled him to find sufficient Security, and *manu-captores*, according to the form of the said Writ (as the Writ doth appoint.) In witness whereof, I have put my Seal to this present Certificate. Dated at *C.* aforesaid, in the County aforesaid, the said first day of *May*. And herewith the Justice may, if he will, send the Recognizance; or he may keep it, till it be sent for by *Certiorari*.

CHAP. XXV.

About a *Mittimus*.

A *Mittimus* is said to be an Order of Commitment of the person of a man to Prison by a Justice, to an inferior Officer, for the time the Law appointeth, for some offence by him done. And there is little or no difference between this, and a Warrant of Commitment. *Warrant.* And as to this, it is to be known,

1. That albeit it be usual for Justices to send a *Mittimus* to the Gaoler, to receive the Prisoner, and to give the Constable no Warrant to carry him to Gaol, and to deliver him to the Gaoler; yet that this is not safe for the Justice, or for the Constable, unless it be in case of a Warrant of the Peace, or Good Behaviour. And therefore it will be the Justice's safety, and Constables wisdom, to have, and to give, and take one Warrant to the Constable to carry the Prisoner, and another Warrant, or *Mittimus* to the Gaoler, to take and keep him, &c. And this is most needful, where the offence, for which he is committed, is an offence by a Statute-Law. Caution to Justices.

And every *Mittimus* to be made, must be made after this manner.

1. It must be in writing, under the Hand and Seal of the Justice.

Z 4

2. It

2. It must express his Office; as *A. B. Esq;* one of the Justices of the Peace of the County of *G.*

3. It must be directed to the Gaoler or Keeper of the Prison.

4. It must express the Name, Christian and Surname, of the party committed.

5. It must express the cause of the Commitment, as for suspicion of Felony, and the like; the offence must be always expressed.

6. It must have an apt conclusion, as thus: *The Prisoner safely to keep, until he be delivered by a due course of Law, &c.* And it must set down the time of its making. So in a Commitment to Bridewell, it is best to set down the cause; as to say, *Because he is idle*, or the like. And therefore a *Mittimus*, with this clause, *To answer to such matters as shall be objected against him; or to keep the prisoner, till the Justice give order for his deliverance* or the like, is not good. *Cook 2 Part. Inst. 591.*

7. In the Pass or Mittimus of a Rogue, where there is to be a recital of a punishment, the manner and time of the punishment is to be set down.

8. If the *Mittimus* be for Felony, and the Felon hath confessed the Felony upon his Examination, then the *Mittimus* is to express it, for then he is not Bailable.

Some Presidents for it.

To the Keeper of the Common Goal for the County
of G.

A. B. Esquire, one of his Majesties Justices of the Peace for the County of *Gloucester*, to the said *K.* These are to require you in his Majesties name, to take into your Goal and Custody, the Body of *L. M.* sent unto you herewith, being charged before me, with the felonious stealing of a silver Spoon, and that you do him safely keep, untill he shall be discharged by order of Law; and hereof fail you not, at your peril. Given under my Hand and Seal, the first day of *May*, 1662. Or thus;

For Felony.

For as much as *A. B.* was this day brought before me, and charged with the felonious taking, &c. (or for suspicion of Robbery done) which, upon his examination, he hath confessed, &c. These are therefore in his Majesties name, to require you presently, upon sight hereof, to take into your Goal and Custody, the Body of &c.

The like.

A. B. &c. To the Keepers of the common Goal for the County of G. It having been made appear to me, upon examination, That *L. M.* and *N. O.* of *Dale*, in this County, have kept and used Nets and Terrets, for the taking and killing of Conies for a year last past, against the Statute of the Realm. And they having been required to enter into Recognisance, to appear at the next Quarter-Sessions for the County, according to the same Laws, they have both of them refused so to do. These are therefore to require

For using Nets
to kill Conies.

require you in his Majesties Name, to receive into your Custody, the Bodies of the said *L.M.* and *N.O.* whom I have sent you by this Bearer *T. D.* one of the Constables of *Dale* aforesaid. And them safely to keep, until they shall enter into such Recognisances as aforesaid, or untill they shall be otherwise discharged by Law, and hereof fail you not. *Given, &c.*

To the Master of the Bridewell of S. for the County of G.

A. B. &c. These are, *&c.* to receive into your Custody, the Body of *L.M.* and him safely to keep, untill he shall be delivered and discharged by order of Law; and that, during all the time, you hold him to labour, and take care he be no charge to the County.

Given, &c.

For Tipling.

That you receive into your Custody, the persons whose names are under-written, there to remain without Bail or Mainprize for 3. dayes, for keeping of Tipling-houses, and common selling of Ale without License. And also being discharged and forbidden by us to do the same. That before their deliverance, every one of them do enter into a Recognisance with two sufficient Sureties not at any time hereafter to keep any common Tipling-house, or use a common selling of Ale or Beer in that behalf; provided whereof, *&c.*

A. D.

A. D. of Dale aforesaid.

E. F. of Dale aforesaid.

G. F. of Dale aforesaid.

That you receive, &c. for divers misdemeanors committed by him, until he shall be bound in a Recognisance, with Surety before some Justice of Peace to appear at the next General Sessions of the Peace to be held for the County, and in the mean time to be of good behaviour towards our Sovereign Lord the King, and all his Liege People (or thus, if for the Peace.) And in the mean time, that he keep the Peace towards our Sovereign Lord the King, and all his Liege People, and especially towards *A. B.* whereof, &c.

For Surety to the Peace, or good Behavior.

Sir S. &c. Whereas *C. D.* hath been for matter of misbehaviour proved before me, by me required to find Sureties for his good behaviour, which he hath resolved to do, These are to require you, that presently, upon sight hereof, you receive him the said *C. D.* herewith sent, into your Custody, and him to keep, and not deliver, till he shall find sufficient Surety for his good behaviour and appearance at the next General Sessions, to be holden for the said County, and hereof, &c.

For the good Behaviour.

we fused

For the Peace.

Whereas *C. D.* hath been for good cause by me required to find Sureties for the Peace which he hath refused to do. These are, &c. (as in the last) till he

he shall find Sureties for the keeping of the Peace, and his appearance, &c.

The Reputed Father of a Bastard-child.

Sir C. &c. I send you here withall, the Body of J. S. of B. in the said County, Labourer, brought before me this day, and charged by F. O. of the same Town, to have gotten her with child; and for that the said J. S. refuseth to put in Security for his appearance at the next Quarter Sessions; and to the end, he may be forth coming, when as order shall be taken for the relief and discharging of the said Town of G. and for the keeping of the said Child, when it shall happen to be born, according to the Statute in that case provided, These are to require, that you do immediately receive the said J. S. and him safely to keep in your Goal, untill such time as he shall be thence delivered by due course of Law, Dated, &c.

An Overseer that refuseth to account.

Sir S. and L. M. Esquire, two of the Justices, &c. to the Keeper of the Goal within the Castle of Gloucester, we send you herewith J. S. and Sir B. the late Overseers of the poor of the Parish of Dale, for that they being called before us, to give in a true account of the maneyes by them received and layd out in the time of execution of their said Office, they did in our presence, wilfully refuse so to do: We require you therefore them safely to keep, without Bail or Mainprize, untill they shall make a true account thereof, and satisfie and pay to the present Churchwardens.

wardens and Overseers of the poor of the same Parish, so much as thereby shall appear to be remaining in their hands. And hereof fail you not, &c.

Of a dangerous Rogue to Bridewell.

C. S. and L. M. &c. to the Master or Governour of the house of Correction, or his Deputy there. Whereas J. S. a sturdy vagrant Beggar, was this day brought before the Constable of Dale, and charged as well with begging and idle wandring abroad; as also with other disorderly behaviour, so as he appeareth to us to be dangerous to the inferior sort of people, contrary to the Laws of the Nation in that case provided. These are therefore to require you, to receive the said J. S. into your Custody, and him safely to keep in your House of Correction, untill the next Quarter-Sessions to be holden for this County. And that during all the time he shall continue with you, and be in his good health, you do hold him to work, and punish him by putting fetters and gyves upon him, and by moderate whipping of him. And that you give him no more for his maintenance, then what he shall deserve, or earn by his labour. And that you have the said J. S. and this Præcept at the next Quarter-Sessions.

A disorderly person.

W. S. &c. We have sent you herewithall, the Body of E. C. of D. in this County, being an idle, or dissolute, and disorderly person, and one that liveth idly, and wandreth begging about the Countrey, and brought before us by the Constable

About a Mittimus.

stable of *Dale*, whom you are hereby required to receive, and him to keep in your Bridewell to work, untill he shall be from thence duly delivered by order and course of Law : And in the meantime, you are to keep him to work, and see to it, that he have no more for his maintenance, then what he can get by his work. And hereof, &c.

One running away, leaving a charge to the Town.

W. S. &c. We send you herewith the Body of *J. S.* of, &c. for that she being a poor Woman, able to work, and having a great charge of Children, and like to charge the Parish, she doth threaten to run away from her charge, and leave it to the Parish. These are therefore, &c. (as in the last.)

The Mother of a Bastard-child.

W. S. &c. We send you herewithall, the Body of *J. C.* of *W.* in the County of *G. S.* English-woman, lately delivered of a Bastard-child, likely to be chargeable to the Parish of *W.* aforesaid. And for that the said *C.* is able to labour, and that thereby she may the better relieve her self and her child, these are to require you, to receive the said *J. C.* into your Bridewell, there to be punisht and set a work for one whole year, according to the Statute in that behalf provided.

But

But here observe, that these three last Presidents, be grounded upon 7 Jac. 4. which doth not prescribe any way of Conviction of the offender, unless it come under the general words of 39 Eliz. 4. that they be taken for idle and disorderly persons: for that, being proved before two Justices, by two Witnesses, this is a Conviction in Law.

CHAP. XXVI.

About Exportation or Transportation, and Importation.

1. **A**LL Justices are by Land or Water, to search for, and finding, may seize any Leather, or raw Hides wrought, cut, or uncut, packed up, or unpacked, intended or purposed to be transported beyond the Seas, or into Scotland, other then Calve-Skins, and Sheep-Skins, dressed without the Wooll, that may by Law be transported by former Statutes, upon 14 Car. 2.

Of Leather
and Hides.

Out of Sessions
2. The Justices may in their Sessions, hear and determine the offences about the exportation of Sheep, Wooll, Woolfels, Mortlings, Shorlings, Yarn made of Wooll, Wooll-flocks, Fullers Earth, Fulling-clay, and Tobacco-pipe-clay, upon the point of Forfeiture for the same, upon 14 Car. 2. and 8 Eliz. chap. 3.

Exportation of
Wooll, Wool-
fels, &c.

In the Sessions.
3. Any one or more Justices, upon Complaint to him may, and ought to issue forth his,

or

Bonelace, Cut-
work, Imbro-
dery, &c.
Constables.

Out of Sessions

or their Warrant to the Constables of any Parish, to enter and search at times convenient for forreign Bone-lace, Cutwork, Imbrodery, Fringe, Bandstrings, Buttons, or Needle-work, imported from beyond Sea, or sold here in the Shops, Ware-houses, or other houses of such as are suspected to have any of it, and to seize the same, upon 14 Car. 2.

CHAP. XXVII.

About a Felony.

AS to Felons and Felonies, and what the Justice of Peace is to do about this, it is to be known.

Out of Sessions

1. That it is held that a Justice of Peace may not make a Warrant to take a man for Felony, unless he be indicted. And after Indictment, if it be, it must be by process out of Court: nor can he send for him, by a Warrant upon his own suspicion, much lesse upon the suspicion of another, but must arrest him himself, as another man must do. But the Justice may make a Warrant to the Constable of the Town, to see the Peace kept in the apprehending of a Felon, and bringing of him before him. And then the party that doth know of, or suspect the Felon, and hath given information, is to arrest him. And it is in Law his arrest. And they may not break open any House to do it, but the door being open, may

may go in to do it. 14 H. 8. 16. *Coo. Instit.* 4. part 177.

2. That no Justice upon a bare surmise, may send his Warrant to break open any mans House to search for a Felon, or stolen goods.

3. That there are some few offences made Felonies to be heard & determined by the Justices in their Sessions, as the breaking down of *Powdick*, Buggery, &c. and some Felonies in the *Northern Counties*. 22 H. 8. 11. 25 H. 8. 6. 43 *Elix.* 13.

In the Sessions;

4. That the Justices may examine Felonies that are such by Statute, wherewith they have not to do, to hear and determine them, send the Felons to Goal, and bind over the prosecutors and witnesses to the Goal delivery.

5. That where any Treason or Felony greater or lesser, is committed, by killing, stealing, burning of dwelling Houses, or otherwise upon the Common Law, or any Statute, in all such cases, these things are to be done by the Justices of the Peace out of their Sessions.

1. Any one Justice of Peace, upon notice or report, may send his Warrant under his Hand, of *Hue and Cry*, and search after the suspected Felon; and if they find him, or one they have good cause to suspect, apprehend, and bring him before a Justice of Peace to be examined thereof. And this he may direct to the Sheriffs, and all Constables of every Town and place within the County.

Out of Sessions

2. If the Felony be by taking away of goods, he may send his Warrant to search in suspicious places, for the goods stolen; and if found

found, to secure them for the owner; and if the Officer suspect the party, in whose hands the goods are, to bring him to a Justice to be examined. But this Warrant must be warily and tenderly made and used.

Take: Information upon Oath.

3. When any is suspected of Felony; by another that is willing to inform against the Felon, the Justice may take his information upon Oath (if he will so give it) or without Oath (if he please) as is conceived. And if the party will not give upon Oath, he shall do well to take it so as he will give it. Nor will we advise a Justice to force anything in this case, but to take such information as the Informer will give, and bind him over.

Examine the
Felon.

4. If a Felony hath been done, and there are some that can discover the Felon, and will not voluntarily come in and inform; the Justice of Peace may send his Warrant, to require them to come in to him, and give such evidence as they can against the person suspected; and if they be obstinate, and refuse, he may perhaps bind them to the good behaviour, and to appear at the Sessions to answer their contempt therein.

5. The Justice of Peace, when the suspected person is brought before him, is to examine him, but not upon Oath. But may examine others against him upon Oath, if they will be so examined.

6. He must put the Examination, or the effect thereof in Writing, and let the person examined (if he will) put his hand to it.

Mittimus.

7. If the Justice see any cause of suspicion in the case, he is to send the person suspected by

a Mittimus

a *Mittimus* to the Goal, and bind over the Informer, if there be any in the case; or if not, some other person interested in it, or one that doth appear to prosecute it; or one of the Witnesses to prosecute the suspected person at the next general Goal Delivery or Sessions (as the case is.) And also bind over such of the Witnesses as can give the best evidence, to be then there to give evidence. Bind over.

8. All these Examinations and Informations, or Copies thereof, together with the Recognizances, for appearance of the prosecutors and Witnesses, he is to certifie, and send into the next Goal Delivery or Quarter-Sessions, where the offender is to be tryed.

9. One Justice alone, may not safely in any case, bail such a person accused of Felony. But if he see cause, or desire to bail him, because the offence is small, as a *petit Larceny*, or if greater, the evidence little, or none at all against him; he must call to his assistance, another Justice of Peace, for there must be two Justices of Peace, and one of the *Quorum*, and they must be together to do this work. See Bail, and 1 & 2 Ph. & M. 13. Bail the Felon.

10. Any one Justice may send his Warrant to arrest any one that stands indicted of a Felony.

CHAP. XXVIII.

About Fish, and Fishing.

ABout Fish and Fishing, upon 1 Eliz. 12.
5 Eliz. chap. 5. 21. 3 Jac. 12. 1 Jac.
chap. 23. West. 2. 43.

Conservators
of Rivers.

1. Justices are to be Conservators of the Rivers, and may search Weares, that by the threightness the fry of Fish be not destroyed therein, upon West. 2. 47. & 13 R. 2. chap. 14. And may appoint under Officers to look to the Rivers, and punish against offenders therein, upon West. 2. 47. 10 H. 3. 19. 17 R. 2. 9.

Pilchards.

2. Any one Justice upon Complaint to him made of idle and suspicious persons, that in the night time flock together about the Boats, Nets, or Cellars of, or belonging to the Pilchard Coast in Cornwall or Devon, and that being warned to be gone, do not depart away, such person shall pay 5 s. to the poor of the place. But here is no way of Conviction set down, and therefore if any thing be done on this, it must be in Sessions.

3. If any one shall fish along the Sea shore, or in any Haven or Creek, or within 5 miles of the mouth of any Haven or Creek, with any net of a lesse mesh then 3 Inches and a half betwixt knot and knot (except for the taking of Smould in Norfolk opely) or with a Canvas net,

of

or other Engine, whereby the Spawn or Fry of Fish may be destroyed; he forfeits the Net, or Engine, and 10 s. in money to be divided between the poor and the prosecutor, to be levied in a Corporation by the head Officer, and in the County by distress and sale of goods, by Warrant from a Justice unto the Constables and Church-wardens of the place, upon 3 Jac. chap. 12. 3 Car. 4.

4. None may use any Net or Engine, to destroy the Spawn, or Fry of Fish, or take Salmons, or Trouts out of season, or Pikes shorter then 10 Inches, Salmons then 16. Trouts then 8. and Barbets then 12 Inches; or use any Engine to take Fish, other then an Angle or Net, of Trammel of 2 Inches and a half mesh, in pain of 20 s. for every Fish so taken, and the Net or Engine so used. The Justices in their Sessions onely, may hear and determine these things.

In the Sessions.

5. None may break down Fish-pond Heads, or Fish in anothers Pond, without his leave, in pain to be imprisoned three moneths, and to be bound with Sureties, to the good Behaviour for 7 years. And the Justices in the Sessions onely, hath power to hear and determine this. And there if the offender acknowledge his fault, and give satisfaction to the party grieved, they may release him of the good Behaviour again, upon 5 Eliz. chap. 21.

6. No Fisherman using the Sea, is to be taken by the Kings Commission, to serve as a

Mariner at Sea, unless the Commission be first brought by the Kings taker, to the two next Justices, that they may chuse and return such sufficient number of able men, as in the same Commission shall be contained, upon 5 *Eliz.* chap. 5.

CHAP. XXIX.

About Horses.

1. **N**One may put to feed upon Forrests, or common ground, any Stoned Horse, above two years old, and not 15 hand high, from the lower part of the hoof, to the upper part of the whither (every hand containing 4. Inches Standard measure) in pain to forfeit the Horse: And this offence, Justices in their Sessions may hear and determine, upon 32 *H. 8.* chap. 13.

In the Sessions,

2. None may convey, sell, or deliver any Horse into Scotland, or any other forreign Country (without the Kings License, or for his Service in the Warres) in pain to forfeit the Horse, and 40 l. And this offence, Justices in their Sessions may hear and determine, upon 1 *Ed. 6.* chap. 5.

3. If any Horse be stolne, and sold in an open Market, and the true owner, or his Executors, shall come within six moneths after the stealing
of

of it, and make his claim before any Justice, near to the place where the Horse is found, the Justice must receive it. And if he shall within 40. dayes after his claim, make proof of his property by two Witnesses upon Oath, before the Justice, and he shall pay to the buyer, so much as he before the Justice shall depose, that he *bona fide* gave for him, he shall have his Horse again. All this the Justice must enter, upon 31 Eliz. chap. 12.

4. The seller, or exchanger of a Horse in a Fair or Market, that is unknown to the Toll-taker, or Book-keeper, that doth not procure a credible witness known to him, to vouch the sale of the Horse, the false Voucher, and the Toll-taker, or Book-keeper that suffers such sale, or exchange to passe, shall forfeit 5 l.

5. The names of the buyer, seller, and Voucher, and price of the Horse, is to be entred into the Toll-book, and a note thereof, under the Toll-takers hand, delivered to the buyer, upon 31 Eliz. 12. And this sale and Voucher notwithstanding, the right owner may redeem his Horse, as before.

6. Every owner of Fair or Market, where Toll is payd, must have a Toll-taker, and where none is payd, a Book-keeper, to sit from ten a Clock till Sun-set, in pain of 40s.

'About a Horse.'

(1) This Officer must within a day after the Fair, deliver to the Owner of the Fair, a Note of all the Horses sold there that day, in pain of 40 s. This Note, the Owner of the Fair must subscribe.

(2) The Sale of a stolen Horse in a Fair or Market, without entry in the Book as before, and without staying there in open view, by the space of an hour at the least, between ten of the Clock and Sun-set, shall not alter the property of the right Owner, but that he may seize or relieve him. Justices of Peace, may hear and determine these offences in their Sessions.

(3) Where no Toll is due, the Book-keepers Fee is paid. By Statute 2. and 3. *Phil.* and *M.* 7.

CHAP. XXX.

*About Forgery of Deeds, upon 5 Eliz.
Chap. 14.*

1. **I**F any forge, or have his hand in the forging of any Deed, or Writing sealed, Court-Roll, or Will in writing; to the intent, that the Free-hold or Inheritance of another man of Land; may be troubled, defeated, or charged; or shall shew forth in Evidence any such forged Writing as true, knowing it to be false, he is to pay double costs and damages, to be assessed by the Court, where the Conviction is, to be set on the Pillory in a Market-Town, or other open place, there to have both his ears cut off, his nostrils slit, and seared with an hot Iron, to forfeit the Issues of all his Land, and be imprisoned during his life; and this for the first offence. The second offence is Felony, without Clergy.

2. But neither Justices, nor Officers, such as Ordinaries, Proctors, Lawyers, Attorneys, for writing a Will, or setting the Seal of Office to it, or for pleading, or giving in Evidence any such forged Writing, nor party, nor privy to the Forgery. Nor to such as shall set their Seal to a Writing, not knowing it to be forged, is not to be taken within this Statute.

3. If any forge a Lease for years of Land, (not Copy-hold,) or of an Annuity, Obligation, Bill, Acquittance, Release, or other Discharge, In the Sessions
of

of any personal, he is to pay double costs to the party grieved, to be assessed as before, to be set on the Pillory, lose one of his ears, and a years Imprisonment without Bail.

In the Sessions.

*viz of 0. & J.
and Affiz*

4. And the Justices in their Sessions, may hear and determine these offences, upon 5 Eliz. Chap. 14. But they have nothing to do out of Sessions in this.

CHAP. XXXI.

About Forefallers, Regrators, and Ingrossers, upon 5 and 6 Ed. 6. Chap. 14. 13 Eliz. Chap. 25. 27 Eliz. Chap. 16. 1 Jac. Chap. 22.

First, He that shall buy, or contract for any Merchandize, Victual, or other thing in the way, before it is brought (by Land or Water) to any City, Port, Road, Fair, or Market, where it should be sold; or shall cause it to be so bought; or shall disswade others from bringing any such Commodity to any such place; or (being brought) shall perswade them to enhance the price thereof, is a Forefaller.

Forefaller

2. He that buyes any Grain, Wine, Fish, Butter, Cheese, Candles, Tallow, Sheep, Lambs, Calves, Swine, Pigs, Geese, Capons, Hens, Chickens, Pidgeons, Conies, or other dead Victuals, brought to a Fair, or Market, to be sold there, and sell the same again in the same Fair or Market, or in some other Fair or Market, is a Regrator. And he that gets into his hands

Regrator.

hands, by buying, contract, or promise, (other then by Demise, Grant, or Lease of Land, or Ty he) any Corn growing in the Fields, or other Grain, Butter, Cheese, Fish, or other dead Victual, with intent to sell it again, is an Ingrosser.

Ingrosser.

3. But the buying of Barley, or Oats, to turn into Malt, or Oatmeal, the buying of Provision for any Town Corporate, Ship, Castle, Fort, *Bermick*, *H. ly Island*, &c. or any Fishmonger, Inholder, Victualler, Butcher, Poulterer, or people, living within a mile of the main Sea, which use to buy and sell Fish, for any thing about their Mystery or Trade, they retailing the same at reasonable prizes; or Badger, Lader, Kidder, or Carrier, assigned to that Office by three Justices, and delivering the Commodity out of his hand within a moneth after he buyes it; or the taking of any thing reserved upon any Lease; or the buying of Grain in a Market for change of Seed, in case where he brings as much Grain the same day, and shall sell it, if he can, at the price of Corn there; or the transporting of Grain or Cattle from one Port to another (by allowance of three Justices, and no fore-stalling) in case where he doth imbarque the same, within 40 days of the buying thereof; and shall bring back from some Justice, or Head-Officer, a Certificate of their unlading, according to his Cocket, or a Drover allowed by three Justices, *Quorum unus*, that shall sell his Cattle at 40 miles distance from the place where he bought them, where such allowance is but for one year; or Wines, Oyls, Sugars,

Out of Sessions.

Sugars, Spices, Currants, or other Foreign Vi-
 ctuals, (except Fish and Salt) brought from be-
 yond Sea; neither of these buyings and sellings
 shall be said to be either of these offences. But
 otherwise he that shall offend in either of the
 Cases before-named, for the first offence loseth
 the value of his goods bought or had, and is to
 be imprisoned for two moneths without Bail.
 For the second offence, the double value of the
 goods, and six moneths Imprisonment without
 Bail. And for the third offence, all his goods,
 and to be set on the Pillory, and be imprisoned
 during the Kings pleasure. But the Prosecu-
 tion must be within two years of the offence
 done. And he that buyes Grain in a Market
 for change of Seed, and doth not bring as much
 other Corn to sell the same day, forfeits double
 the value of the Grain so bought. And he that
 buyes any Cattle, and sells the same alive with-
 in five weeks, loseth double the value thereof.
 And while he keeps them, he is to keep them
 upon his own ground.

In the Sessions

Out of Sessions

4. The Justices have power to hear and de-
 termine all these offences within their Sessions,
 in the ordinary way, or by the Testimony of
 two Witnesses. And out of Sessions, the Ju-
 stices may do nothing about this, unless it be to
 give License to transport from one Port to ano-
 ther; and to give a Certificate of the unloading
 of Corn or Cattle within 40 days, as before is
 set down, upon 5 and 6 Ed. 6. 14. 13 Eliz.
 25.

5. In *Tyn. 9 Jac. Co. B.* It was agreed by
 the Judges, That the buying of Wheat-meal,
 and

and the converting of it into Starch, is not within this Statute, *Owens Rep.* 134, 135. But if one buy Corn, and therewith make Meal, or Oatmeal, and sell it, this is within the Statute; And there said to be adjudged, That where one bought Barley, and it being of a great quantity, that he could not make it in his own house, he made it in another house, by his own Servants, 1. That the Conversion of Corn into Malt, in a mans own house, with an intent to sell it, is within the Statute. 2. That because it was in anothers house, that he is out of the Proviso, and so within the penalty of the Statute. *Owens Rep.* 135. See *Croo.* 1. 426, 167, 229. *viz. Cav.*

CHAP. XXXII.

About Gold, Silver, and Gold-Smiths, upon 3 H. 5. Chap. 3. 2 H. 6. Chap. 14.

First, None may gild Sheaths, or any Metal but Silver, and the Ornaments of the Church; nor silver any Metal, but Knights Spurs, and the Apparel belonging to a Baron, or above that Estate, in pain to forfeit ten times the value of what is so gilt, and to suffer a years Imprisonment, upon 8 H. 5. 13.

2. None may sell any work of silver, unless it be as fine as *Sterling*, except what Sower is necessary therein, upon 2 H. 6. 14.

3. None may put to sale any Silver harness in London, before it be touched, and marked with the Gold-Smiths mark, first made known

to the Wardens of that Craft, in pain to forfeit the double value thereof.

4. If the Keeper of the Touch mark such Harness with the *Leopards* head, which is not as fine as *Sterling*, he forfeits the double value and damages to the party.

5. No Gold-Smith elsewhere, then in *York*, *Newcastle*, *Lincoln*, *Bristol*, *Salisbury*, and *Conventry*, where is no Touch, shall put to sale any work of Silver, under the fineness of *Sterling*, and shall set their Mark thereupon, before they put it to sale, upon the like forfeiture. And *York*, and the places before-named, shall have several Touches (according to the Ordinances of the chief Officers there) upon the like forfeiture, upon 2 *H.6.* 14.

In the Sessions.

6. The Justices (in their Sessions) may hear and determine of all the Offences within the Statutes of 8 *H. 5.* 3. and 2 *H. 6.* 14.

CHAP. XXXIII.

About Guns, Cross-Bowes, &c. upon 33 *H. 8.* 6.
2 and 3 *Ed. 6.* 14. 1 *Jac.* 27.

In the Sessions.

AS to this, take these things:
1. That all Offences about shooting in Hand-Guns, Cross-Bows, Hagbut, or Demihake, and the like, upon the Statutes of 33 *H. 8.* Chap. 6. 2 and 3 *Ed. 6.* Chap. 14. 1 *Jac.* Chap. 27. are, and may be here determined. So the having in his house, or shooting in any such thing by one that hath not 100 *l.* a year, in pain of
10 *l.*

10 l. So the having or shooting in a Hand-gun, not a yard long, a Hagbut, or Demihake, not three quarters of a yard, in pain of 10 l. So the travelling with a Cross-Bow bent, or Gun charged, but in time of War. And the shooting with such a one within a quarter of a mile of a City, Borough, or Market-Town, except for the defence of himself or his house, or at a dead mark, in pain of 10 l. So the command of ones Servant to shoot in a Gun, or Cross-Bow, or at a dead Mark, or in time of War, in pain of 10 l. upon 33 H. 6. 16. But Lords, Knights, Esquires, and Gentlemen, and the Inhabitants of Cities, Boroughs, or Market-Towns, may keep in their houses, and use to shoot at a dead mark, Guns of the length aforesaid. So may the Owner of a Ship, for the defence of his Ship. So may he that dwells two Furlongs from a Town, or within 5 miles of the Sea; and such a one may shoot at any Wild-Beast or Fowl, save Deer, Heron, Shovelard, Pheasant, Partridge, Wild-Swan, or Wild-Elk, 33 H. 6. 6. Also, a Servant may use his Masters Cross-Bow, or Gun, of the length aforesaid, so as he shoot at no Fowl, Deer, or other Game, by the same Law..

2. 'Tis by 1 Jac. 27. provided, That if any Out of Sessions shoot at, or kill with any Cross-Bow, Stone-Bow, or Long-Bow, any Pheasant, Partridge, House-Dove, or Pigeon, Hearn, Mallard, Duck, Teal, Widgeon, Grouse, Heathcock, Moregame, or any such Fowl, or any Hare, that the Offender, upon Proof of the same, by his own Confession, or the Oath of two Witnesses, before any two Justices of Peace, of the same place

place where the Offender dwells, or is apprehended, he may by them be sent to the Common-Gaol for three moneths without Bail; unless he forthwith do pay in to the Church-Wardens, to the use of the Poor of the place, where the offence is committed, or Offender apprehended, 20 s. for every such Harn, Fowl, or Bird so killed. (See there also a Provision about the Eggs, for the Eggs of Pheasants, Partridges, and Swans.) Or unless he shall within a moneth after his Commitment, with two sufficient Sureties, become bound in a Recognizance, never to do so again. And this any two Justices of the place where the Offender dwells, or is taken, may take; and, having taken, must return to Sessions.

In the Sessions.

3. The Justices (in their Sessions) have power to hear and determine all the offences, upon 33 H. 3. 6. Power also is given by that Act to convey the Offender to the next Justice, who, upon Examination and Proof, may commit him to Prison, till he satisfy the Penalty.

4. All that presume to shoot, but such as are allowed by the Statute; are to present their Names (if in a Corporation) to the Head-Officer; if, in the County, to the next Justice, to be recorded in the next Sessions, in pain of 20 s. But the Justices have no further to do upon this Law, of 2 and 3 Ed. 6. 14.

5. But one Justice may take the Presentment of him that useth a Hand-Gun, by License, by 2 and 3 Ed. 6. 5.

CHAP. XXXIV.

About Corn and Grain, upon 5 Eliz. Chap. 12.
13 Eliz. Chap. 13. 3 Car. 1. Chap. 4.

In the Sessions.

1. **N**One may take upon him, but a married man, and a Householder, of the age of 30 years at least, to be a Badger, Lader, Kidder, Carrier, Buyer, or Transporter of Corn or Grain, Butter and Cheese, without a License in open Sessions, under the hands of 3 Justices, *Quorum unus*; such as is in Licenses, Chap. 7. under pain of 5 *l.* and this License to be in force for one year onely. And Licenses otherwise made, than according to the Statute of 5 Eliz. 12. are void.

2. This License, and the Recognizance taken with it (if any be taken), the Clerk of the Peace is to enter, and to have for his Fees, for writing the License 12 *d.* for the Recognizance, 8 *d.* for entering both in a Register-Book 4 *d.*

3. The Badger that hath this License, may not buy Grain out of an open Fair or Market to sell again, unless there be special words in his License to warrant it, in pain of 5 *l.* for every offence.

In the Sessions.

4. But Purveyors of Cities, and Towns Corporate, and the Inhabitants of the Countie of Westmerland, Cumberland, Lancaster, Chester, and York, are excepted out of this Statute of 5 Eliz. 12.

5. The Justices have power to hear and determine any of the Offences upon this Statute.

Transportation
of Corn.

6. Justices in their Sessions, as they may License, so they may prohibit the Transportation of Grain at their discretion: But their Order for it must be approved by the King or his Council. And this Order the King (if he see cause) may by his Proclamation countermand, when Corn may be transported. See 13 *Eliz.* 13. 3 *Car.* 4.

CHAP. XXXV.

About Habeas Corpus, Certiorari, Writ of Error, and Superseas, upon 5 Eliz. 42. 13 Eliz. 13. 3 Car. 4.

Habeas Corpus,
What?

Certiorari,
What.

Superseas,
What.

AS to the *Habeas Corpus*, being to remove a Prisoner and his Cause, from before the Justices, into a higher Court, upon supposal that they had done, or will do, illegally; the *Certiorari* being to remove a Cause and Record, from before the Justices, into a higher Court: The *Superseas* from a higher Court, to forbid the Justices further proceeding; And the *Writ of Error*, to undo what hath been done before by the Justices; these things are to be known.

1. That Process of the Peace, and Good Behaviour, may not be had out of the *Chancery*, or *Kings-Bench*, but upon motion in open Court, and good cause shewed in Court upon Oath, to be

be indorsed upon the back of the Writ. And if the cause be after found false, the Judges there may send the Offender to Prison, till the party grieved be paid all his costs and damages, 21 Jac. 8.

2. All Writs of *Superfedeas* shall be void, but what is had upon motion, as is aforesaid; and upon sufficient Bond, with Sureties of Subsidymen, rated at 5 l. in Lands, or 10 l. in Goods; and unless the prosecution appear to be *bona fide*. And here false Sureties procured, to gain such Writs, shall be punished by the Judges.

3. The Justices, where such a Writ is duly granted, and brought to the Justice, they must obey it; for it is penal to them, if they do not so. And therefore, if the Justices have sent out their Warrant, to command the doing of that, the which forbiddeth, they are to recall, and countermand their Warrant. And it is dangerous for Justices of Peace, to proceed upon a Record, after a *Certiorari* is sent to them to remove it. *Croo. 1 Part, 438.*

4. It is dangerous for a Constable to do any thing, upon a Justice of Peace's Warrant, after a *Certiorari* shewed to them; for he may be bound to the Good Behaviour for it.

5. Every *Habeas Corpus*, and *Certiorari*, to remove a Record, or Prisoner, ought to be signed by one of the Judges of the Court from whence it comes.

6. A *Certiorari* shall not be allowed, and the Justices may refuse to send away an Indictment, upon any such Writ, if it be for a Ryot, forcible Entry, Assault and Battery, except the

Writ be delivered in to the Justices of Peace in their Quarter-Sessions, sitting in the Court; and except the Party indicted will be bound with good Sureties, to pay the Prosecutor his Costs. But in case of Indictments for a Forcible Detainer, or for any other offence than what is before named, it is otherwise, 21 *Jac.* 8.

7. If the Writ do not require the sending away of the Recognizance, which the Justice hath taken, he is to send the Writ and the Recognizance to the next Sessions, to be filed there.

8. The Judges that do send for any such Record, or Prisoner, may (if they please) send it back again to the Justices, to be determined by them, by 6 *H.8.* 6. *Steels Rep.* 475, 322, 399.

CHAP. XXXVI.

About Hunters, Hawkers, Fowlers; and Hunting, Hawking, and Fowling.

AS to this, these things are to be known: *Sett. 1.*
 1. That all the Offenders about Hawking, Hunting, and Fowling, upon 1 *Jac. Chap.* In the Sessions.
 27. 3 *Jac. Chap. 13.* 19 *H. 7. Chap. 11.* 1 *H. 7. Chap. 7.* 7 *Jac. Chap. 11. 13.* 5 *Eliz. Chap. 21.*
 13 *R. 2. Chap. 13.* may be heard and determined in the Sessions.

2. That by 13 *R. 2.* It is provided, That no In the Sessions
 Lay-man that hath not 40 s. a year, nor Clergy-
 man that hath not 10 l. a year, is to keep a Grey-
 hound, Hound, Dog, Net, Ferret, Engine, to kill Grayhound,
 Deer, Hares, Conies, or other Gentlemens Ferret, Net,
 Game, under pain of a years Imprisonment. &c.

3. That by 19 *H. 7. c. 11.* none shall keep
 any Deer-Hays, or Buckstal, (save in his own Deer, Hare,
 Forest or Park) under pain of 40 s. a moneth. Conies, Heron.
 None may stalk with a Bush or Beast to any
 Deer (but in his own Park or Forest) under pain
 of 10 l. None may take an old Heron (but in
 his own ground) in pain of 6 s. 8 d. Nor a
 young Heron, in pain of 10 s. And these Of-
 fenders, any two Justices may commit to Pri-
 son, till they have satisfied the Forfeitures,
 whereof they are to have the 10th part, but no

way of Conviction; and therefore not to be done out of the Sessions.

4. That by 3 *Jac. Chap. 13.* none (without the Owners License) may kill or chase any Deer or Conies, in any Park, or inclosed Ground, in pain of 3 moneths Imprisonment, and to pay treble damages to the party grieved, and to be bound to the good Behaviour for 7 years, or stay in Prison till he be so bound. And by 7 *Jac. Chap. 13.* it is in the Election of the party grieved, to have 10 *l.* or treble damages for the wrong.

Red or Fallow
Deer.

Out of Sessions

Correc-tion-
House.

Deer, Conies.

5. To course, or kill, or hurt any Red, or Fallow Deer, in any Forest, or other place where they are usually kept, is 20 *l.* forfeiture. And any one, or more Justices, within 6 moneths after the Offence done, may, by Oath of one or more Witnesses, convict the Offender of the offence; and then, by Warrant under his Hand and Seal, cause it to be levied by distress and sale of goods, returning the over-plus; the one moiety to the Informer, and the other moiety to the Owner of the Deer. And, for lack of distress, he may send him to the House of Correction for 6 moneths, to be set hard on work; or he may send him to the Common-Gaol for a year without Bail, at the choice of the Justice. And then the Offender to be bound to the good Behaviour for a year, upon 13 *Car. 2. Pag. 50.*

6. That if one, not having 40 *l.* a year in land, or 200 *l.* in Goods or Chattels, use any Nets, Guns, or other such Devices, to kill Deer or Conies, (unless he hath some Park of his own) he

he that hath 100*l.* a year land, may take it from him to his own use. In the Sessions

7. That by 19 *H.7. Chap. 11.* None that have not Forests or Parks of their own, may keep any Deer-Hays, or Buckstals, in pain of 40*l.* for every moneth he keeps them. And that none shall stalk with any Bush or Beast to a Deer, in another mans Park, without his consent, in pain of 10*l.* There the taking of Herons is forbidden. Herons.

8. If any man shall hunt any Deer or Conies, in any Parks, Forests, or Warrens, in the night disguised. In this case, any one Justice of Peace, upon complaint to him made thereof, may send his Warrant to the Sheriff, or any Bayliff, or other Officer within the County, to arrest, or bring the Offender before him to be examined, and may examine him; and if he deny it, it is Felony. Sect. 2.
 and the Justice is so to prosecute it. Felony.
 But if he confesses it, he is onely to bind him over to the next Sessions; and there he is to be fined Out of Sessions.
 for it, by 7 *H.7. Chap. 7.* But hunting in a Coni- In the Sessions.
 ger, that is not a free Warren, it seems is not within this Statute. X

9. By Statutes of 3 *Jac. Chap. 13.* and 7 *Jac. c. 13.* it is provided, That if any one, by night or by day, shall break into another mans Park impaled, or several Grounds inclosed with Wall, Pale, or Hedge, used and kept for breeding and feeding of Deer or Conies; and there hunt, drive, or chase out; or take or kill any Deer or Conies, within any such place, against the will of the Owner, he is to be imprisoned 3 moneths, In the Sessions.

and pay to the party grieved his treble damages; and give Surety for the Good Behaviour for 7 years, unless the party grieved, shall (in the open Sessions) within the 7 years release him thereof: or the Offender come there, and confess his fault, and the Justices there, as they may, discharge him. This not to be extended
 X to any Ground, after that time, to be Inclosed to that use, without the Kings License.

Guns.

10. That if any one that hath not 40 *l.* a year in Land, or 200 *l.* in Goods or Chattels, shall use any Gun or Bow, to kill any Deer or Conies, or keep any Buckstall, Hayes, Ferrets, Coney-Dogs, Nets, or the like Engines, to kill any Deer or Conies, except it be one that hath such an Inclosure of Conies or Deer, worth 40 *s.* a year for himself, or Warreners and Keepers: Any one that hath Land in Fee, or for life, in his own, or his Wife's right, may take away such Guns or Bows, or Ferrets, &c. and keep them to himself, by 3 Jac. Chap. 13.

11. No man is by Day or Night, to break down or destroy the Head or Dam of any Fish-Pool, Pond, or place where Fish are, to kill, or take away the Fish; or shall take away the Fish there, against the Owners will, in pain of Imprisonment for three moneths, and to pay to the party grieved his treble damages. And to be after bound with Sureties to his Good Behaviour for 7 years. So if he take away Hawks, or Hawks Eggs, out of anothers ground, upon
 5 Eliz. 1.

12. That

12. That none may hawk, or hunt in another mans ground, where Corn or other Grain doth grow, at such time as the same is standing or growing, nor before it is put in shocks, or Cocks, in pain to forfeit 40 s. to the owner of the ground. This is punishable in the Sessions.

In the Sessions

13. Any two Justices may upon Statute of 1 Jac. chap. 27. keep a special Session, and therein hear and determine all the offences within that Statute, as of the general Sessions.

Sett. 3.

Special Sessions
Out of the
General Sessions.

14. If any man kill any Hare in the Snow, he shall forfeit 6 s. 8 d. for every Hare so killed, upon 14 & 15 H. 8. chap. 10. But this punishment is not to be inflicted out of the Sessions.

Tracing a
Hare in the
Snow.

In the Sessions

But by 1 Jac. chap. 27. It is provided, that if any with Gun, or Cross-bow, kill any Hare, he must pay 20 s. to the poor of the place, or be sent to prison 3. moneths without Bail, or enter into a Recognisance with Sureties, never to do so again.

But by 1 Jac. chap. 27. It is provided, That if one shoot at, or kill a Hare, or trace or course any Hare in the Snow; or at any time take, or destroy any Hare with Hare-pipes, Cords, or such like Engines. And for this, any two Justices of the place, where the offence is done, or offender apprehended, may commit him to the Goal for 3. months without Bail, unless he forthwith pay to the Churchwardens, to the use of the poor, for every Hare so killed, taken, or coursed, 20 s. or enter into a Recognisance to two Justices in 20 l. not to offend so again. And the two Justices may convict him by

Killing a Hare.

Out of Sessions

by his own confession, or by the Oath of two Witnesses. See chap. 33. of Guns, &c.

Wild Fowl.

15. None may take any Wild-fowl, as Ducks, Mallards, Wigeons, Teales, Wild-geese, and the like, between the last of *May*, and the last of *August*, with Nets, or such like Engines, in pain of 2 years Imprisonment, and 4 d. for a Fowl. Nor may any destroy, or take away the Eggs of any Wild-Fowl, in pain of 20 d. an Egg, and imprisonment for a year. 25 *H.* 8. chap. 11. And the Justices in their Sessions, may hear and determine these offences. And yet

Out of Sessions

1 *Jac.* chap. 27. for the taking or killing of any House-Dove, Pigeon, Hern, Mallard, Duck, Teale, Wigeon, Goose, Heath-cock, Moregame, he may, the offence being confessed, or proved by two Witnesses upon Oath, before two Justices, be by them committed to prison for three moneths, without Bail, unless he pay forthwith to the Church-wardens there for the poor 20 s. for every Fowl.

Pheasants and Partridges.

16. As to the killing, or labour to kill Pheasants or Partridges, take this,

Sect. 4.

1. That by 11 *H.* 7. chap. 17. it is provided, That none may take or kill Pheasants or Partridges in ano hers ground against his will, by any Net, or like Engine, in pain of 10 l. And other provisions are there about Hawks, and Hawks and Swans Eggs. See the Statute.

In the Sessions
Taking Pheasants and Partridges by Nets.

2. That none may take, or kill any Pheasant, in pain of 20 s. Partridge in pain of 10 s. if it be in the night time. And if the forfeiture be not payd within a moneth after the conviction, then to be imprisoned one moneth without Bail.

And

And further, that the offender put in bond with good Sureties, not so to offend again within two years. And this Recognisance any one Justice may take, also one Justice may examine the suspect offender, and if he see cause, take Sureties for his appearance at the next Sessions. But if he refuse to pay the penalty, or to be bound to appear in Sessions, it seems, the Justice can do no more therein out of the Sessions. 23 *Eliz.* And upon this Statute, the Justices in the Sessions may hear and determine any of the offences named in the Statute; and any one Justice may examine Witnesses out of the Sessions, by the latter branch of the Statute.

Out of Sessions

But by 7 *Jac.* chap. 11. it is provided against this offence, that two Justices of the County where the offence is done, a party apprehended, may upon the parties Confession, or proof of one Witness upon Oath, be sent to the Goal for 13 moneths without Bail, unless he forthwith pay to the use of the poort of the place 20s. for every Pheasant or Partridge so killed, and to be bound in a Recognisance of 20 l. not so to offend again. And this any one Justice may take, and then must return it to the next Quarter-Sessions.

17. It is provided by 1 *Jac.* chap. 27. that if any shoot at, destroy, or kill any Pheasant or Partridge, or other Fowl (named in the Statute) with any Gun, Bow, with setting-Dogs, or Nets, or such like Instrument; he is upon proof thereof, upon Oath of two Witnesses, or upon his own Confession, before two Justices of the place where the offence is done, or offender

dor apprehended, to be by them committed to Goal for 3. moneths without Bail, unless he pay to the Churchwardens of the place, to the use of the poor there, 20 s. for every Pheasant, Partridge, or Fowl, so taken or killed.

18. If any hawk at, or kill any Pheasant or Partridge with any Hawk or Dog, between the first day of *July*, and the last day of *August*; In this case, any two Justices of the County wherein the offender dwells, or is apprehended, may within 6. months after the offence done, upon proof thereof by the Oath of two Witnesses before them, commit the offender to the Common Goal of the place, wherein the offender dwells for a moneth without Bail, unless he do forthwith pay to the Churchwardens, or Overseers of the poor of the place, 40 s. for every time he so hawketh, and 20 s. for every Pheasant and Partridge so killed. But he may not be punished for this, after 6. moneths time after the offence done, by 7 *Jac.* chap. 11. And by that Statute also, any two Justices may give a Warrant under their hands to any Constable, or such like Officer to search for, and to spoil, and kill all such Setting-Dogs and Nets, as they shall find.

19. He that is punished upon 1 *Jac.* chap. 27. is not to be punished upon any former Statute. And he that is punished upon 7 *Jac.* chap. 11. is not to be punished again for the same offence.

20. If any man that hath not 10 l. a year of his own Inheritance, or 30 l. a year of his Freehold, or 200 l. in goods, or is the eldest Son of

Keeping a
Grayhound,
Setting-Dog,
or Nets.

a Knight, or greater man, shall keep any Grayhound, Dog, or Nets, to take Partridges or Pheasants. In this case, any two Justices upon suspicion thereof, may send their Warrant to search in places where they suspect, for them; and give the Searchers power, if they find any, to kill the Dogs, and tear the Nets. And they may also, upon the confession of the party, or proof thereof by two Witnesses, send him to Goal for three moneths, unless he forthwith pay to the Churchwardens of the place, where, &c. the 40 s. upon 1 *Jac.* chap. 27. And if any such unqualified person, kill or destroy any Pheasants or Partridge, by night or by day, by Nets or otherwise; any two Justices upon his Confession thereof, or Oath of one Witness, may send him to the Goal for a moneth, unless he forthwith pay to the Churchwardens or Overseers of the poor, where, &c. 20 s. for every Pheasant or Partridge so killed, upon 7 *Jac.* chap. 11.

In or out of
Sessions.

21. If any man buy or sell any wild Partridge, Pheasant, Deer, or Hare; Any two Justices of the place where, &c. upon the Confession of the party, or Oath of two Witnesses, may commit him to Goal for 3. moneths, without Bail, unless he forthwith pay to the Churchwardens of the place where, &c. 40 s. for every Deer; 10 s. for every Hare, or Partridge; and 20 s. for every Pheasant: or untill he enter into a Recognisance with 2. Sureties, never to do so again. 1 *Jac.* chap. 27. 3 *Jac.* chap. 13.

CHAP. XXXVII.

Of Masters, Servants, Labourers, Artificers, and Apprentices.

Sett. 1.

Conspiracy of
Vintners,
&c.

First, Artificers, Work-men, or Labourers, that conspire together, concerning their Work or Wages, shall forfeit, for the first offence, 10 *l.* to the King; and if not paid within 6 weeks after Conviction, (by Witness, Confession, or otherwise) he shall suffer 20 days Imprisonment; and, during that time, shall have no sustenance but bread and water. For the second offence, shall forfeit 20 *l.* and that not paid within 6 days, as aforesaid, shall suffer the Pillory. And, for the third offence, shall forfeit 40 *l.* and that not paid within the said time, shall again suffer the Pillory, lose one of his Ears, and be ever after taken as a man infamous, and not to be credited, by Stat. 2 and 3 *E. 6. 15.*

Justices power
herein.

2. Justices of Assize, of Peace, Maiors, Bayliffs, and Stewards, in Sessions, Leets, and Courts, have power to hear and determine these offences. But, *Quare*, Whether this Branch of this Statute, be not repealed by the general words of 5 *Eliz. 4.*

Special Sessions.

3. All former Statutes, about hiring, keeping, departing, working, wages, or order of Servants, Work-men, Artificers, Apprentices, and Labourers, are repealed, 5 *Eliz. 4.*

4. Any two Justices of the Peace (whereof one

one of the *Quorum*) may twice a year, between *Mich.* and *Christmas*, and *Lady-Day*, and *John Baptist*, for three days at a time, keep a special Sessions onely, to enquire and severely punish the offences, against the Statute of 5 *Eliz.* 4. about hiring, keeping, departing, working, wages, and order of Servants, Workmen, Artificers, Apprentices, and Labourers. And the Justices are to have, each of them, 5 s. a day out of the Forfeitures, for the time the Sessions lasts, for their pains herein.

5. None shall hire, or be hired, for less time then one whole year, in the Arts of Clothier, Woollen-Weaver, Tucker, Fuller, Cloth-Worker, Sheerman, Dyer, Hosier, Taylor, Shoemaker, Tanner, Pewterer, Baker, Brewer, Glover, Curler, Smith, Farrier, Sadler, Spurrier, Turner, Lapper, Hatter, or Felt-maker, Fletcher, Arrow-head-maker, Butcher, Cook, Miller.

6. Every person unmarried, or under the age of 30 years (though married) having been brought up in any of the Arts abovesaid, by the space of 3 years, and not worth in Lands 40 s. *per annum*, or in goods 10 l. (and so allowed under the Hands and Seals of two Justices of Peace, the Head-Officer, or two discreet Burgesses of the place, where the party so brought up hath lived, by the space of one whole year,) not already retained in Husbandry, the Arts abovesaid, or any other Art or Mystery, or in any service (upon request of any person using the same Art) shall not refuse to serve for the wages, limited by the Statute, being so retained, shall

Sect. 6.

One that refuseth to serve.

One that being hired, departeth.

The Justice, or Mayors power out of Sessions.

Two Justices power.

Who must serve in Husbandry.

To put away a Servant, during his time.

shall not depart from his or their service, without one Quarters warning, before two lawful Witnesses, or some lawful cause, to be proved before one Justice of Peace, or Head-Officer, in pain of Imprisonment, without Bail. But upon submission to perform the service, they shall be enlarged without Fees; which commitment and enlargement, two Justices of Peace, the Head-Officer, or two Burgessees, as aforesaid, to whom complaint shall be made, have power to command, as in their discretions, and upon due proof, shall be thought fit.

7. Every person, between the ages of 12. and 60. not already retained in any service, nor employed about Husbandry, Mines, Glasse, fishing, sailing, provision of Grain, or Meal for London; nor Gentleman born, nor Scholar in an University or School, not worth 40 s. *per annum*, in Lands, or 10 l. in Goods, nor having Father, Mother, or other Ancestor, (whose Heir he is) worth 10 l. *per annum*, in Lands, or 40 l. in Goods, shall be compelled to serve in Husbandry; and shall not depart that service, otherwise then is before limited, upon the pain above expressed.

8. None shall put away his Servant, before the end of his term, without a Quarters warning, or some lawful cause to be proved by two Witnesses, before the Justices of Oyer and Terminer, Assize, Peace in Sess. a Head-Officer, or two discreet Aldermen or Burgessees, in pain of 40 s.

9. No

9. No Servant having served in one City or Town, shall get to serve in another, without a testimonial, viz. (in a Town Corporate, under the Seals of the Town, and two Household-ers there; and in the Countrey, under the Seals of the Constable, or Constables, and two Household-ers there; which testimonial shall be made, and delivered to the party, and also registred by the Minister of the place where the Servant dwelt; for which the Master is to have 2 d. the form of the Testimonial is thus.

Testimonial of
a Servant.

That A. B. Servant to C. D. of J. in the County of F. Husbandman, or Taylor, &c. in the said County, is licensed to depart from his said Master, and is at his liberty to serve else-where, according to the Statute in that case made and provided: In witness, &c.

The Servant which sheweth no such Testimonial to the chief Officer in a Corporation, or to the Minister of some Officer in any other place, where he is to dwell, shall suffer imprisonment till he procure one; and if he produce none within 21 dayes after his imprisonment, or shew a false one; he shall be punished by whipping as a Vagabond, and the Master that retains a Servant without such a Testimonial, shall forfeit 5 s.

Those that work by the day, or week, shall continue at work, betwixt the middle of March, and the middle of September, from 5. in the morning, till betwixt 7. and 8. at night, except two houres allowed for breakfast, dinner,

The times of
work in the
day.

and drinking, and half an hour for sleeping, from the midst of *May*, till the middle of *August*, and all the rest of the year, from twilight to twilight, except an hour and an half allowed for breakfast and dinner, on pain, to have one penny defaulted out of their wages, for every hours abstinence.

To leave ones
work before
it be done.

11. None that takes work by great; shall leave the same before it be quite finished, except for non-payment of his wages, the Queens Service, License of the Work-master, or other lawful cause, on pain to suffer one months imprisonment without Bail, and to forfeit all to the party grieved; besides his costs and damages to be recovered at the Common Law, for the losse sustained.

Departure out
of Service
without Li-
cense.

12. None retained in Service to work, shall depart without License, on pain of one months imprisonment.

Stat. 4.
Assessment of
Wages.

13. Such wages of Labourers, Artificers, and others as have been formerly rated, or concern Husbandry; shall be yearly assessed for the County, by the Sheriff and Justices of Peace in Sessions, and in Corporations by their Head-Officer at their Easter Sessions, or within 6. weeks after and before the 12th of *July* following, shall be certified under their Hands and Seals, in the Chancery: whereupon, the Lord Chancellor or Keeper, shall send down printed Proclamations thereof, into every County and Corporation, before the first of *September*, then next following, which the said Sheriffs, Justices, and head-Officers, shall before *Michaelmas* after, cause to be intollled, and Proclaimed, But when

the old Rates shall be certified to stand, no Proclamation is needful. See after, *Numb.* 39. 40.

14. A Justice of Peace, or chief Officer, which shall be absent at the taking of wages (being not letted by sickness, or some other reasonable cause to be allowed by the Justices, upon Affidavit, shall forfeit 10 l.

Proclamation of it.
Justice punished for omission of his duty.

15. None shall give greater Wages, then those so rated (as aforesaid) on pain of 5 l. and 10 dayes imprisonment without Bail; and if any shall be convicted before two Justices of Peace, or a head-Officer) of taxing more Wages, he shall suffer 21 dayes Imprisonment without Bail.

Giving above the Rate.

16. Every retainer, promise, gift or payment of Wages, or other thing contrary to the true meaning of this Act, and every Writing and Bond to be made for that purpose, shall be void.

17. If any Servant or other, shall be convicted before two Justices of Peace, or a chief Officer, as aforesaid, by his own Confession, or Testimony of two honest men, to have assaulted his Master, Mrs. Dame, or Overseer, he shall suffer one years imprisonment, or lesse, if the Justice or chief Officer shall think fit; and if the party shall be thought to deserve a more severe punishment, then to receive such open punishment (life and member excepted) as the Justices in Sessions, or the chief Officer, and 4. of the discreetest men in the Corporation, shall think convenient.

Power of a Justice.
Abuse of the Master by the Servant.
Maior, &c.

Justices power in Sessions.

- Laborers in the Harvest time. 18. Artificers shall work in Hay-time and Harvest, on pain of Imprisonment in the Stocks two dayes and one night, which the Constable shall inflict upon them, on pain of 40 s.

A Justices
power.

Out of Sessions

19. It shall be lawful for Labourers not retained to go to other Shires to work in Hay-time and Harvest, so they being with them a Testimonial under the Hand of one Justice, or a chief Officer, testifying, that they have not sufficient work in that place where they lived the Winter before; for which Testimonial they shall only pay a peny.

Justices power.
Out of Sessions
Power compellable to serve.

20. Every unmarried Woman (fit to serve) above 12. and under 40. shall by two Justices, a chief Officer, or two Burgessees, be compellable to serve for convenient time and wages, on pain of imprisonment.

Sect. 5.
Husband-man.
What Apprentices they may take.

21. Husbandmen being Householders, and using half a Plow Land (at least) in Tillage, may take by Indenture Apprentices, above the age of 10. years, and under 18. to serve in Husbandry, till the age of 21 at least, or 24. as the parties can agree.

What Apprentices may be taken.

22. Every Householder, of the age of 23. dwelling in a Town Corporate, and using there any Art or Mystery, shall and may take an Apprentice for 7. years at least: howbeit, the term ought not to expire before the Apprentice accomplish the age 24 years.

Justices power.
Out of Sessions.

23. Merchants, Mercers, Drapers, Goldsmiths, Ironmongers, Embroyderers, and Clothiers dwelling in Corporate Towns, shall take no Apprentices, but their own Children, or such whose

whose Parents have Inheritance or Freehold of 40 s. *per annum*, to be certified under the Hands and Seals of 3. Justices of Peace of the Countrey where such Lands lie, to the head Officer of the said Corporation, who shall cause the same to be recorded. And Merchants, Mercers, &c. the like Tradesmen dwelling in Market-Towns not corporate, shall take no Apprentices but their own Children, or such, whose Parents have Inheritance or Freehold, worth 3 l. *per annum*, to be certified under the Hands and Seals of three Justices of Peace, as aforesaid.

Corporation.

24. Smiths, Wheel-wrights, Plow-wrights, Mill-wrights, Carpenters, Rough-Masons, Plaisterers, Sawyers, Lime-burners, Brick-makers, Bricklayers, Tylers, Slaters, Helyers, Tile-makers, Linnen-Weavers, Turners, Coopers, Millers, Earthen Potters, Woollen Maners (of Housewife Cloth onely), Fullers, Wood-burners, Thatchers and Shinglers, may take Apprentices, where their Parents have no Land.

25. None which hath served an Apprentice seven years, in any Act or Mystery, shall use the same, or set any other to work therein, which hath not so served out that time, on pain to forfeit 40 s. for every moneth.

None may use a Trade, nor Apprentices to it.

26. Woollen-Cloth-Weavers (except such as inhabit Cumberland, Westmerland, Lancaster, or Wales, or in Cities, Corporations, or Market-Towns) shall take no Apprentices, nor

Cumberland, Westmerland, &c. What Apprentices may be taken there.

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teach any their Art (save their own Children) or such whose Parents have Inheritance, or Freehold, worth 3 l. *per annum*, to be certified under the Hands and Seals of 3. Justices of the County where the Land lies, on pain to forfeit 20 s. for every moneth, and the Indenture shall within 3. moneths be registred in the Parish where the Master dwells; the Fee for which is 4 d.

Journeyman
to be kept.

27. Every Cloth-worker, Fuller, Sheer-man, Weaver, Taylor, and Shooe-maker, shall for every three Apprentices, keep one Journey-man, and for every Apprentice above three, another Journey-man, on pain of 10 l. But this Act shall not prejudice Worsted-makers, nor Worsted-Weavers in *Normich*, or *Norfolk*.

Self. 6.

Maioir of a
Corporation.

28. If any person fit to make an Apprenice, refuse to serve upon demand, one Justice of Peace, Mayor, or Head-Officer, to whom complaint thereof shall be made, have power to commit him to Ward, till he be willing to serve.

Just. of Peace
Power out of
Sessions.

29. And if there shall arise any difference betwixt the Master and the Apprenice, one Justice of Peace, Mayor, or Head-Officer in any Corporation, or Market-Town, shall have power to reconcile it, if they can; if not, to bind over the Master the next Quarter-Sessions, where the Justices of Peace, or any four of them, (1 *Qu.*) or the Head-Officer, with the

consent

consent of three of his Brethren, shall (upon default found in the Master) in Writing under their Hands and Seals, have power to discharge the Apprentice of his Service; and if default be found in the Apprentice, to inflict such punishment, as in their discretion shall be thought fit.

30. None shall be bound to enter into an Apprenticeship, but such as are under the age of 21. years.

Who may be bound Apprentice.

31. This Act shall not restrain the City of London and Norwich, from taking Apprentices, as in times past.

City of London, &c.

32. None shall take Apprentices otherwise then is limited in this Act, on pain of 10 l. and all Indentures otherwise made, shall be voyd.

Apprentices taken against this Law. Indentures for Apprentices void.

33. An Apprentice shall be bound by his Indenture, notwithstanding his non-age of 21. years.

Apprentice under 21. years old. Goldming in Surrey.

34. The Inhabitants of Godalming in Surrey, may take and use such Arts and Apprentices, as Market-Towns may do, by virtue of this Act.

35. The Fines accruing by this Act in Towns Corporate, shall be appointed by the Head-Officer to be collected, as other Fines and Amerciaments, for the use of the same Towns.

Fines. Corporations.

The Forfeiture, how to be disposed.

The power of the Justice.

Departure of an Apprentice from his Masters service.

Justice, or Maiors power.

Stat. 7.

Rating of Wages of Labourers.

Out of Sessions

36. All the Forfeitures, upon this Statute of 5 Eliz. (but such as are otherwise appointed by the Statute) shall go between the Queen and the Prosecutor, by 5 Eliz.

37. All Justices of Peace, or any of them, *Quorum unus*, and Head-Officer, may hear and determine the breach of this Statute, upon Indictment, or otherwise, and award Process and Execution accordingly; and must yearly, in *Michaelmas* Term, by *Estreats*, certify into the *Exchequer*, the Fines accrewing by this Statute, as they do in other Cases.

38. When an Apprentice departs from his Masters service, into another County or Corporation, it shall be lawful for the Justice, or Head-Officer, there (being Justices of Peace) to direct a *Capias* to the Sheriff; or other chief Officer, for his apprehension; and, being taken, to commit him to Ward, till he give good Security, that he will honestly serve out his time.

39. This Law notwithstanding, the High Constables may keep their Statute-Sessions; so as therein they do nothing contrary to this Statute, 5 Eliz. 4.

40. By the Statute, 1 Jas. 6. the Statute of 5 Eliz. 4. shall give power to Justices of Peace, to rate the Wages of any Labourers, Weavers, Spinsters, and Work-men, or Work-women whatsoever. And the rating of Wages in Sessions, by the more part of the Justices, within any particular Riding or Division (where General Sessions have been used severally to be kept)

kept) shall be as effectual, as those rated by the General Sessions of the whole County, 1 Jac. 6.

41. The Sheriffs and Head-Officers, within their several Precincts, shall cause the said Rates to be proclaimed in such sort, as if they had been sent down printed from the Lord Keeper, which all persons shall be bound to observe, upon the pain and penalties mentioned in the said Statute of 5 Eliz. 4. 1 Jac. 6. See before, Sect. 4.

Proclamation by the Sheriff of the Rates.

42. A Clothier, or other, convicted before the Justices of Assize, or Peace, in their Quarter-Sessions, or before two Justices, (one of the Quorum) by his own Confession, or Evidence of two Witnesses, not to have observed the said Rates, by paying less, shall forfeit 10 s. to the party grieved, to be levied upon Warrant, from the same Justices, by distress and sale of goods, by 1 Jac. 6.

The Office of the Justice of Peace.

43. None shall incur any danger, for not making Certificate of the Rates into the Chancery, according to 5 Eliz. 43. by 1 Jac. 6.

Out of Sessions

Certificate.

44. A Clothier, being also a Justice of Peace, shall not be a Rater of wages, for any Artificer that depend on making of Cloth, by 1 Jac. 6.

No Clothier to be Justice.

45. Justices of Peace, in their several Divisions, and Head-Officers in Towns Corporate, shall meet twice every year, (viz.) once between Michaelmas and Christmas, and another time betwixt the Lady-Day and Midsummer, to give order for the execution of this Statute. And these Justices, and others, shall have 5 s. a day a piece, for every day they sit, upon this work

Justice of Peace's Office.

Their Wages.

work only, not above 3 days at one time, Out of the Fines arising by the breach of the Statute, by 5 Eliz. 4.

CHAP. XXXVIII.

About the giving of an Oath.

Out of Sessions

ANy one Justice may minister Oaths in the Cases hereafter following, out of their Sessions, (*viz.*) The three Oaths to be taken by the Officers of the *Militia*, or by their Soldiers, upon 14 Car. 2.

2. So any one Justice may give the Oath to him that desires Surety of the Peace against another.

3. So to the Under-Conservators of Rivers.

4. Any one Justice of the County, where a Robbery is done, dwelling in, or near to the Hundred where it is done, may within 40 days of the Robbery, take his Oath that is robbed, that he did know, or did not know, any of them that did commit the Robbery; and if he knew either of them, take his Recognizance to prosecute him, upon 27 Eliz. Chap. 13.

To a Recusant.

5. Any one Justice, of the four, that do License a confined Recusant to travail, may give him the Oath, appointed by the Stat. of 3 Jac. Chap. 5.

6. So any one Justice may give the Oaths of Allegiance, Obedience, and Supremacy, upon 1 Eliz. Chap. 3. 4 Jac. Bullstrode, 2 Part, 155. See Chap. 14. So in some Cases, the Justice may

may require it, 1 Eliz. 1. 5 Eliz. 1. 7 Jac. 6.

7. One Justice may give the Oath to High-Constables, Petit-Constables; which is thus: *You shall swear, that you shall well and truly execute the Office of High-Constable of the Hundred of H. or of Petit-Constable of the Parish of H. and Liberties thereof, to the best of your skill and power, untill another be chosen in your room, or you be discharged by Order of Law.*

8. Any two Justices may (out of Sessions) *Out of Sessions* minister Oaths in the Cases following. (*viz.*)

1. Any two Justices of the County, wherein an Officer is chosen into the Excize Office, may give to him the Oath of Supremacy, Allegiance; and for the execution of his Office, upon 12 Car. 2. And this he is to certify at the next Sessions. 2. So to Overseers of Cloth, upon 5 Ed. 6. Chap. 2. 39 Eliz. Chap. 20. 43 Eliz. Chap. 12. 3. So to the Overseers of them that are infected with the Plague, upon 1 Jac. Chap. 31. 4. So there must be two Justices of the City, or Corporation, wherein there are Justices; or of the County, wherein the Corporation is, may (in some Cases) tender and administer the three Oaths and Declaration, to the Members of the Corporation, upon 13 Car. 2. 5. There must be two Justices, *Quorum unus*, without Commission, and out of Sessions, to give the Oaths to Under-Sheriff, their Bayliffs, Deputies, and Clerks, at the first entrance into their Offices, upon 27 Eliz. Chap. 12. 6. So to give the Oath to the Collectors, for the Sheriffs Amerciaments, for the County-Court, upon

on

on 11 *H. 7. Chap. 15.* 7. Any two Justices may give the Oaths of Allegiance and Supremacy to a Post-Master General, who is to take the same Oaths before them, ere he can be capable by the Office, by 12 *Car. 2.* 8. It is in 13 *Car. 2.* declared, That the Oath of the *Solemn League and Covenant*, was an Oath imposed unduly, and against the Laws and Liberty of the Nation. 9. For the Oath of Supremacy and Allegiance, see *Chap. 8. Sect. 4.*

CHAP. XXXIX.

About Offices, and Officers.

Sect. 1.
Out of Sessions

First, Any two Justices may, out of Sessions, make Searchers for Tile, upon 17 *Ed. 4. Chap. 4.*

2. So Overseers of Cloth, upon 3 and 4. *Ed. 6. Chap. 2.*

3. So two Justices, *Quorum unus*, may appoint Overseers of the Poor for the Parish, upon 43 *Eliz. Chap. 2.*

4. One Justice may, for some miscarriages of an Officer, bind him (perhaps) to the Good Behaviour, and to appear at Sessions.

Corporations.
In the Sessions

5. Searchers of Brass and Pewter, in every City and Borough, is to be appointed by the Head-Officers thereof; and in the County, by the Justices at their *Michaelmas* Sessions, by 19 *H. 7. 6.*

6. Any

6. Any one Justice, or more Justices, what they may do in the choice of Constables. See *Constables*.

7. And every Justice, being Conservator of the Rivers, may choose another, or others under them, to oversee them, upon 27 R.2. Chap.

9.

8. But the Treasurers, for relief of poor maimed Souldiers and Mariners, and for the *Kings-Bench* and *Marshallsea*, and for the relief of the Prisoners in the Gaol, and the rest that are Treasurers for the County, and Masters for *Bridewell*, and such like County-Officers, are to be chosen in the Sessions. And there they are to be punished for most of their miscarriages, 43 Eliz. 3. 14 Eliz. 3. 30 Eliz. 4. 7 Jac.

In the Sessions

4.

9. And yet one Justice may (out of Sessions) punish the default of Sheriffs, by not returning good Jurors, to enquire in a case of Forcible Entry before him, upon 8 H.6. Chap. 9.

10. So one Justice may call a Watch-man to an account, for the Execution of his Office; and, if he find him faulty, bind him to the Good Behaviour, or cause him to be indicted.

11. And any two Justices may call the Treasurers of the County-Stock, High-Constables, Petty-Constables, and others their Executors, or Administrators, to an account, who have been formerly trusted with the County-Stock, and have not accounted, and force them to pay over the money in their hands to the Treasurers, upon 43 Eliz. and 14 Car. 2.

12. And two Justices, by Order of Sessions, may

may levy, by sale of goods, the Fine imposed by Sessions, on the Treasurers of the County, for neglect in their Office, upon 43 *Eliz. Chap. 2.*

13. None may be an Escheater, or Deputy to him, unless he have 20 *l.* a year Free-hold in the County, worth 20 *l.* a year, in pain of 40 *l.* His Deputy or Farmer must be a sufficient man, and is to certify his Deputation within twenty days after it is made, in pain of 40 *l.* And these offences, Justices in their Sessions may hear and determine, by 12 *Ed. 4. 9.*

14. Stewards, Bayliffs, and other Ministers of Liberties, are to attend the Justices, and make due execution of the Process, to them directed within their Liberties, upon 27 *H. 8. 24.* 32 *H. 8. 20.*

15. The Officers that are made by this Court, and do most properly attend upon it, are to be punished in it; yet, in many cases, they may also be punished in other Courts.

SECT. II.

About Sheriffs.

Sett. 2.

First, The Sheriff is at the next County Court, after he shall receive the Writ for the Assessing of the Wages of the Knights of Parliament, to make Proclamation, that the Officers and others appear at the next County Court, to

do

do the work. And there the Sheriffs and Officers must be present, and make the Assessment upon every Hundred by it self, according to the direction of the Statute: And more then what is rated, may not be levyed upon any place, under the Penalties named in the Statute. And that which is rated, is to be levyed speedily, and to be paid in to the Knights for the Parliament. And if any offence be herein, the Justices may punish it in their Sessions, upon 23 Hen. 6. Chap. 11.

In the Sessions.

2. Any two Justices (*quorum unus*) may give the Under-Sheriff, his Bayliffs of Franchises, Deputies, and Clerks, their Oaths; which they are to take, before they meddle with their Office; in pain of 40 l. 27 Eliz. 12. And two such Justices may over-look his Books of Amerciaments, and seal the Indentures of his Estreats, and swear his Bayliffs, to levy no more then is in the Estreats, upon 12 H. 7. 15. But any one Justice may examine the Collectors of his Amerciaments in his County-Court, if they gather more then is upon the Estreats; and if he find it, certifie it into the *Exchequer*, upon 11 H. 7. 15. 27 Eliz. 12.

Out of Sessions

3. One Justice may punish his offence, in not returning good Jurors, to enquire of a Forcible Entry. upon 3 H. 6. 9.

4. If the Sheriff, in his County-Court, shall enter a Plaint, in the name of one not present there himself, or by his Attorney, or shall not see that the Plaintiff do put in his Pledges, or he enter more Plaints then one, or more then the Plaintiff desires for the same cause; or if there shall

Out of Sessions

In the Sessions.

shall be a proceeding in his Court against one, that hath no Summons to appear. Any one Justice may examine the Sheriff, or any of his Officers; and if he, by their Confession, or otherwise, do find it true, he is to certifie it into the *Exchequer*, under pain of 40 s. upon 11 H. 7. 15. But for all other offences punishable upon a Sheriff, wherewith the Justices have to do, it is to be done in the Sessions; and so they may punish them, upon 23 H. 6. 10. For the letting of his Bayliwick to Farm, for returning upon Inquest a Bayliff, Steward, or other Servant of his: for taking any thing for arresting, or for omitting to arrest, but for the Sheriff 20 d. for the Bayliff 4 d. that made the Arrest; and to the Gaoler 4 d. when the party is committed; and punish the Sheriff, or any other Officer, for taking above 4 d. the pannel. And so they may be punished, if they have not Deputies in the Courts at *Westminster*, to receive Writs: or if they set nor to Bail persons arrested by them that have sufficient in the County, and that are not in Prison by Condemnation, Execution, *Capias Utlagatum*, Excommunication, Surety of the Peace, or committed by the command of the Justices; or Vag bonds, refusing to serve upon reasonable Sureties; or if he return a *Capi Corpus*, or *Reddidit se*, and have not the body at the return of the Writ. And if he, or any of his Officers, shall take Bond of any arrested person, but for his appearance, and to themselves onely, and take above 4 d. for it, all such Bonds taken by them, *Colore Officii*, are void. So also, they may punish the Sheriff, Coroner, or other Officers,

Officers, (having returned Writs) upon 27 Eliz. 7. That shall return any Juror, without addition of the place where he dwells; or that shall levy Issues of any other person, than such as he hath Estreats for: So also he, and other of his Officers, may be there punished, if they enter into, and take upon them, their Offices, before they have sworn the Oath, set down in the Statute, before two Justices of Peace, upon 27 Eliz. 12. But they have nothing to do at all, in or out of Sessions, upon Stat. *De finibus levatis, Articuli Super-Chartas*, 8. 13. Stat. *De Assinectis*, 2 Ed. 3. 4. 12. 4 Ed. 3. 9. 15. 5 Ed. 3. 14. 14 Ed. 3. 7. 9. 28 Ed. 3. 7. 9. 42 Ed. 3. 9. 1 R. 2. 11. 1 H. 4. 11. 4 H. 4. 5. 1 H. 5. 4. 4 H. 5. 2. 23 H. 6. 8. 1 Ed. 4. 2. 12 Ed. 4. 1. 17 Ed. 6. 6. 11 H. 7. 15. 6 H. 8. 18. 34 H. 8. 16. 2 & 3 Ed. 6. 4. 34. 8 Eliz. 16. 29 Eliz. 4. 43 Eliz. 4. 21 Jac. 5.

CHAP. XL.

About Printing Seditious, Treasonable, and Unlicensed Books and Pamphlets; And for Regulating of Printing, and Printing-Presses.

As to this, take these things:

1. That no man is to Print, or cause to be Printed, here, or beyond Sea, any Heretical, Seditious, Schismatical, or offensive Books, or Pamphlets, wherein any Doctrine shall be asserted,

terted, contrary to the Christian Faith, Doctrine, or Discipline of the Church of *England*; or tending to the Scandal of Religion, the Church, or the Government thereof, State, or Common-wealth; or of any Corporation, or particular person: Nor shall import, publish, sell, or dispose of any such Book: Nor shall cause or procure any such book to be published, or put to sale; or to be bound, stitche d, or sewed together.

2. That no man is to print, or cause to be printed, any Book or Pamphlet, unless the same be every part of it first entred into the Register-Book of the Company of Stationers in *London*, except Acts of Parliament, Proclamations, and such as shall be appointed to be printed, by Warfant under the King's Sign Mannual, or under the Hand of one or both of the King's Principal Secretaries of State; or (if Books of Law) by License of the Lord Chancellor, one of the Chief Justices, or Chief Baron, or by one of their Appointment. Of History, by one of the Principal Secretaries of State, or one of their Appointment, Of Heraldry, &c. by the Earl-Marshal, or one of his Appointment; or such others, as it is in the Act. All other Books by License of one of the Arch-Bishops, or Bishop of *London*; or by one of their Appointment; or one of the Chancellors, or Vice-Chancellors of the University. And the Licenser is to have a Copy of the Book, to be disposed, as is set forth in the Act: Or, if it be in *English*, two Copies, if the Licenser require it; with the Licensers hand, that there is nothing in
the

the Book against the Act. And an Inscription of his Name, by whom it is Licensed.

3. That Books from beyond Sea, shall be brought into no Port, but into *London*, without leave of one of the Arch-Bishops, or Bishop of *London*; nor until they have been searched.

4. That no Book brought from beyond Sea, is to be printed here; but by License, as the Books here made are Licensed, under pain of 6s. 8d. a Book.

5. That the Printer do upon every Book, set down his own name, and the name of the Author of the Book, under pain to forfeit the Books.

6. That no man shall put another mans name on any such Book, under pain to forfeit the Books.

7. That none but a Free-man of *London*, or one that hath served 7 years at the Trade; or one licensed by the Bishop of the Diocess; may buy Books to sell them again, upon pain to forfeit them.

8. That no *English* Book printed beyond Sea, shall be brought in here, under pain to forfeit it.

9. That no Alien may sell any such Book printed beyond Sea, without License of the Arch-Bishop of *Canterbury*, or Bishop of *London*.

10. See more for Printing Playes, and the Regulating of the Trade, in the Act.

11. The Justices may (in their Sessions) hear and determine any of these Offences, and there impose such further punishment for the

In the Sessions

same, by Fine and Imprisonment, or other corporal punishment, not extending to life, or limbs, as they please. And they are to certify every year into the *Exchequer*, what they do impose for these things, upon 14 *Car. 2.*

In the Sessions,

12. Any one, or more Justices, may at their Sessions, take a Recognizance of 300 *l.* of him that is to be allowed the use of a Printing-Press, or Printing-house, nor to print, nor suffer to be printed in his house, or press, any Book, but such as is lawfully licensed, upon 14 *Car. 2.*

Out of Sessions

13. Any two Justices may hear and examine by two Witnesses, the offence of a Journeyman Printer, or Founder of Letters for Printing, that shall refuse employment, being offered it by a Master-Printer, or Founder of Letters; or that shall neglect it, when he hath undertaken it, and commit him to the Common-Gaol, for three moneths, without Bail, by 14 *Car. 2.* But it is not said, examine upon Oath, nor how he shall be convicted. And therefore it seems, that by this, the Justices may not do any thing, but in a Sessions-way by Indictment, &c.

Caution to Justices,

14. If any person be brought before one or more Justices, by the Searchers, authorized to look after unlicensed Books: For that offence, any one, or more Justices, may commit him to Prison, till he be tryed for the offence, by 14 *Car. 2.*

CHAP. XLI.

About Purveyance.

1 IF any force any to make Purveyance of *Sect. 1.*
Victuals, or Carriage for the King, *Out of Sessions*
Queen, or their Children, in the old way, with-
out the Owners consent, any two Justices, near
about the place, and the Constable of the place,
upon complaint of the party grieved, may com-
mit the Offender to the Gaol, till the next
Quarter-Sessions, and then to be proceeded
against, upon 12 *Car. 2.* But here is no way ap-
pointed for the Justices, to convict the Offen-
der of his offence; and therefore not (as it
seems) to be done without advice. And yet
happily, the Complaint of the Party, a thing so
notorious, may be judged sufficient in the Case.

2. The Clerk, or chief Officer, of the King's *Out of Sessions*
Carriages, is at least three days before he is to
move (in any Journey) by Warrant from the
Green-Cloth, to give notice in Writing, to 2 or
3 of the Justices about the place, whence he is to
move, to provide what Carts and Carriages he *For Carriage.*
shall need for the work; and when, and where
they are to come. And then these Justices are
to require the Countrey, at the Rates set down
in the Statute, to provide Carts and Carriages
of 4 able Horses, and 6 Oxen; or four Oxen, and
two Horses, at 6 *d.* a mile, for every mile they

Rates.

go laden, to be paid in hand, and one Cart to be charged for one day. And if any refuse, or shall not be ready at the time and place, nor having good cause; that the same Justices, upon due proof thereof, and Conviction of the offence, by the Oath of two Witnesses, or the Oath of the Constable, or other Officer, may (by their Warrant) cause to be levyed of the Goods of the Offender, the 40 s. penalty, by distress and sale of them, giving back the over-plus, by 13 *Car. 2.*

3. If the Justice, or other Officer, miscarry themselves herein, by requiring of the County more then necessary, by partiality, or oppression, he forfeits 10 l. by 13 *Car. 2.*

4. The King's Servants, where they travail, are to pay but 12 d. a night for Lodging, but 12 d. a night for the Master, and 6 d. for the man. And if they have horses, and pay for them and their own dyer, they are to pay nothing for Lodging. He that takes more, forfeits 40 s.

Out of Sessions

Rates.

5. Two or more of the Justices, where the King is to pass, are, upon notice from the Clerk or Officer of the Green-Cloth, to set down (under their Hands and Seals) Rates, to be paid for Oats, Lodging, Horse-mear, and other Accommodations; for the Horses of the King and his Servants, in his Journey; and to make Proclamation thereof in the next Market-Town. And he that shall take more then this for Lodging or Horses, he forfeits 40 s. The which, upon Conviction, any one Justice may levy by distress, and sale of goods, returning the over-plus. And the Justice may convict him of the offence, either

ther by the parties Confession, or by the Oath of one credible Witnefs; the which he may administer to him.

6. That when a Warrant shall come to any two or more Justices of Peace, under the Hands and Seals of the Lord High-Admiral of *England*; or of two or more of the principal Officers or Commissioners of the Navy; or of the Master of his Majesties Ordnance, or the Lieutenant of his Ordnance, for the providing of Carriage for the service of the Navy, or Ordnance, the Justices are presently to send out their Warrants to the places thereabouts, not above 12 miles from the place of Carriage, for such a number of Carriages, with Horses or Oxen, as they shall think fit, at the Rate the Statute doth set down. And for Shipping, for the King's Service, the same Officers, or any of them, may appoint whom they please, to take up such, and so many, as they need, at the Rate, for ready money, and according to the Rules mentioned in the Statute. If any refuse in this case to come, or neglect the Service put upon them, according to the Statute, upon Oath of it, (for Land-Carriage, by the Constable, or two credible Witnefs, which the Justices receive: And for Water-Carriage, by him that is employed to press the Shipping) to be taken before the Officer, or Officers, that doth give order to press; forfeits twenty shillings for the Land-Carriage; and, for the Water-Carriage, treble the weight, not exceeding five pounds,

Sect. 2.
For the Navy.

Constable: 1

in toto, to the King's use ; and this not paid up-
on Demand, to give Warrant to levy it, by di-
stress and sale of goods, rendring the over-plus.
If any Justice be partial, take gift to spare any,
or maliciously charge any , or put more upon
any one then his part, and what is reasonable,
the Justice shall forfeit ten pounds to the party
grieved.

That if any other, not empowred as before,
shall press or inforce Carriages, he forfeits ten
pounds.

That no Ships, loaden and engaged , are to
be pressed, where others are to be had.

That for Carriage of Timber, in *New-Forest*
in *South-hampton*, the Justices of the Peace may
allow somewhat more , as is there set down,
12 Car. 2.

Caution to
Justices.

There seems nothing to be done , upon this
last part, that the Justice may safely do out of
the Publique Sessions, For the recovery of the
Penalties.

CHAP. XLII.

*About Prisons, and Prisoners, and Keepers
of Prisons.*

A Bout these things are to be known :
1. That the Gaols that were in the
Sheriffs Custody, were re-joynd to their Bay-
liwicks,

liwicks, and they are to put in such Keepers, for whom they will answer, 14 Ed. 3. Statute 1. 10.

2. That the King's Castles and Gaols, that were wont to be joyned to the Bodies of Counties, and were severed, shall be re-joyned, 13 R. 2. Chap. 15.

3. Justices are to imprison none, but in the Common-Gaol, saving to Lords their Franchises, where they have any, 5 Hen. 8. Chap. 10.

4. The Sheriff of every County, is to have the keeping of the Gaol of the County, except such a one as doth hold by Inheritance or Succession, Lease for life, or years. And all Letters-Patents hereafter made to any, for life or years of such Gaols, are to be void: The Kings-Bench and Marshalse, excepted.

5. Felons are to be committed to the Common-Gaol, and not elsewhere; and the Sheriffs to keep these Gaols, and to be allowed in their Accounts, for repair of them, 21 Hen. 8. Chap. 2. In the Sessions;

6. Justices (in Sessions) may Rate the County, (not above 6 d. or 8 d. a Parish a week in the year) towards the relief of the Prisoners in the Gaol. This the Church-wardens must levy every Sunday, and pay quarterly to the High-Constable; or (if it be in a Corporation) to the Head-Officer: And he is to pay the same to the Collectors thereof, appointed by the Justices; who are to distribute it weekly to the Prisoners, in pain of 5 l. for any of these Officers failing of his duty herein. Rate for the Prisoners in Gaol, .
Out of Sessions

7. In

Corporation:

7. In a Corporation, the Justices are not to meddle, but the Maior and Head-Officer thereof, 14 *Eliz. Chap. 5.*

Charge of an
Offender sent
to Gaol.

8. The Offender that is to be carryed to Gaol, is to bear his own charge, and the charge of them that attend him. If he refuse it, one Justice may send his Warrant to the Constable of the place, where he hath goods within the County, to sell so much thereof, as to satisfie the charge, by appraisement of the Neighbours, returning the over-plus. And if he have no

Out of Sessions

Goods, the Constables, Church-Wardens, and two or three others of the Parish; or, in want of such Officers, four of the chief men of the Parish, where he is taken; may make a Rate for it: which being allowed by one Justice of Peace's hand, is to be paid. And if any man refuse, the Justice may send his Warrant to the Constable, Tything-man, or other Officer, and give him power to levy it by distress, and sale of goods, after appraisement, rendering the over-plus, 3 *Jac. Chap. 10.*

CHAP. XLIII.

About Rates.

1. **T**HERE must be two Justices under their Hands and Seals, to approve of the Rate made by Constables, and such like Officers of Parishes, with the Church-wardens, Overseers and Inhabitants of the place, for the discharge of the Constable, for the Charge he hath bin at in the relief and Convey of Rogues with passes, or to the House of Correction, and to give Warrant under their Hands and Seals, to levie it by distress and sale of goods, upon 14 Car. 2.

2. Two Justices in each County, may tax every City and Borough of the County where they dwell, towards the Wages of the Burgeses within the Shire-Towns. And this Tax must be rated and distributed upon the Inhabitants of the places, by 4. or 6. discreet Burgeses thereof, and then levied and payd to the Burgeses of Parliament, upon 35 H. 8. chap. 13.

3. The Justices in their general, or in a special Sessions, may rate the Wages of Labourers, Weavers, Spinners, and Workmen, upon 1 Jac.

6. 5 Eliz. 4. within any particular Division, and these are to be prosecuted, as if they were at the publick Sessions.

4. So there must be two, and one of the *Quorum*, to rate and give Warrant to levie the Rate set upon any persons of other Parishes of the

the Hundred, for the help of a Parish, not able to keep its own poor, upon 43 *Eliz.* chap. 2. So for a Rate set upon a Hundred, for the Relief of a poor Souldier, or Mariner, that is come from Sea, and wanteth work or relief, upon 39 *Eliz.* chap. 17. and by 4 *Eliz.* 3. the Justices in Sessions may rate the whole County for relief of Souldiers and Mariners, and cause it to be levied and imployed for Souldiers and Mariners.

5. So to carry a prisoner to Goal, where he hath not goods to be sold to bear the charge of it, the Constables and Churchwardens, and two or three others of the Parish, or, for lack of such Officers, by 4. sufficient men of the place where he was taken. And any one Justice of Peace, by putting of his Hand to it, may confirm it, and afterwards give his Warrant under his Hand, to levie it by distress, and sale of goods, and return the overplus, it being praised by 4. Inhabitants, and so to pay over the money to him that did bear the charge of the Convey of the ner, upon 3 *Jac.* chap. 10.

6. Any one Justice may allow of, and sign, the Rates made by the Surveyors of the high-ways, with 3. or 4. of the substantial men of the Parish, for the repair of the high-ways, where the ordinary 6. dayes work will not do it, so it exceed not 6. d. a pound in the Parish through the whole year, upon the new Statute of 14 *Car.* 2.

7. Where a Hundred upon a Robbery done, and a Suit brought by the party robbed, is chargeable for the money lost; and default
found

found by the Hundred in prosecution of the Felon, and the one half of that money is recoverable upon that Hundred, by the party robbed, in the name of the Clerk of the Peace of the County. And where damages are recovered against one, or some few Inhabitants of the Hundred, and the rest refuse to contribute thereunto; any 2. Justices, *quorum unus*, living near the place, may rate every place within the Hundred, for the levying of it. And according to this Rate, the Constables of every place, *ex officio*, are to tax the Inhabitants of the place, and to levie the money, and pay it into one of the Justices, upon 27 *Eliz.* chap. 13.

8. Any two Justices may rate the parts adjacent, for the relief of a place infected with the Plague, and by Warrant under their Hands and Seals, cause the same to be levied by distress and sale of goods, or by imprisonment, in case of lack of distress, upon 1 *Jac.* chap. 31. 21 *Jac.* chap. 28.

9. If Parishioners, and the Constables, and Churchwardens thereof, cannot agree in the distribution of the Rates of the Justices, for the Kings Bench, Marshalsey, &c. any one Justice living near to the place, may set the Rate. And if then they neglect to levie it, any one Justice may give Warrant to levie it, by distress and sale of goods. And, for lack of distress, send the party to prison, till he pay in, upon 43 *Eliz.* chap. 2.

10. The like, save onely Commitment, may one Justice of Peace do, in case of default by the Parishioners and Constables, for the Rate set

set by the Justices, for the relief of maimed Souldiers, and Mariners, upon 43 *Eliz.* chap. 3.

11. Four Justices, *quorum unus*, and no lesse, may enjoyn the County to amend a Bridge; or the high-way within 300 foot of it, and for that purpose, set a Rate upon every man, which they, the Constables, and 2. of the Inhabitants of every Parish, and not otherwise, must make in Parchment in every Hundred, under the Justices Seals, and then delivered to the Collectors, they are to make to be levied, upon 5 *Eliz.* chap. 13. 18 *Eliz.* chap. 9.

12. The Justices may, and, as it seems, out of Sessions, set down the Rates that the Brewers of Ale and Beer within the County, shall sell by their Barrels, Kilderkins, or Firkins of Ale or Beer, which they may not exceed; upon 23 *H.* 8. 34. But perhaps the fittest place for this may be in the Sessions. And the Justice hath nothing else to do about Vessels, than what the Justice to do in the Rate for the poor. See *Pow.* chap. on *Beer*, upon 23 *H.* 8. 4. or 8 *Eliz.* 9.

13. And as for other Rates, if any other there be to be made, they must be made in the Sessions. So the Rate for relief of prisoners in the Goal, upon 14 *Eliz.* chap. 5. For the Kings Bench and Marshalsey, and for maimed Souldiers and Mariners, upon 43 *Eliz.* 2. 3.

14. About Free Quarter, there is nothing now to be done by the Justices, upon the 19th of *December* 1648; or the 24. of *December* 1647.

About Rates.

415

15. The Rating of Wages for Labourers and Servants, must be yearly, at the Quarter-Sessions after *Easter*, or within 6. weeks after, and cannot be at any other time, or in any other place. 5 *Eliz.* 4. 1 *Jac.* 6. 39 *Eliz.* 2. 1 *Jac.* 25. And at this Session, they must examine how it is observed.

Sect. 3.
Labourers.
In the Sessions

16. And at this Sessions, they are to make their Rate upon the County, for the relief of the prisoners in the Kings Bench and Marshalsey, by 43 *Eliz.* 3.

Prisoners in
the Kings
Bench, &c.

17. At one of their Sessions, they are yearly to make the Rate upon the County, for the Relief of the prisoners in the Common Goal, by 1 *Jac.* 25. 14 *Eliz.* 5.

Prisoners in
the Goal.

18. And at the Sessions after *Easter*, they are yearly to make their Rate upon the County, for the relief of the maimed Souldiers and Mariners, by 43 *Eliz.* 3.

Mariners and
maimed Souldiers.

19. And at the Sessions after *Easter*, the Justices may, if they see cause, set another Rate upon the County for the Mariners and maimed Souldiers, not exceeding 2 s. 6 d. a week, nor under 3 d. a week on a Parish: this to be rated by the persons, and under the penalties, and in the manner of the Statute of 43 *Eliz.* 3.

Mariners and
maimed Souldiers.

CHAP.

CHAP. XLIV.

*About a Recognisance. And the discharge of it.
And of Bail and Mainprise, and a Super-
sedens.*

Recognisance,
what?

1. **A** Recognisance is a Bond of Record, testifying that the Recognisor doth owe a certain sum of money to our Sovereign Lord the King, with Condition, that the Recognisor shall do some other thing, for the which he is bound in that sum in the nature of a penalty: wherein take these things first of all.

2. Any Bailment or Mainprise (which is a kind of Recognisance) is the saving or delivering of a man out of prison, before he hath satisfied the Law, by taking Surety of him, that he shall appear and do it.

3. Any Recognisance that may be taken by one or two Justices out of the Sessions, may be taken by all the Justices in the Sessions. And there the Justices may at their discretion, take Recognisances of Badgers, Laders, Kidders, Carriers, Buyers, or Transporters of Corn, or Grain, Butter and Cheese, that they shall not fore-stall, or ingross, or put in practise any thing contrary to 5 and 6 Ed. 6. 14.

3. The Justices of Gloucester and Herefordshire, are to bind with good Sureties, the Keepers of Ferries over *Seavern*, in Recognisances, not to transport any Passenger or Cattle out of
England,

England, into *Wales*, or the Forreſt of *Dean*; or from either of thoſe places into *England*, before Sun-riſing, and after Sun-ſet, unleſs they be ſuch as they know, and will answer for, by 26 H.

8. 5.

4. Any two Juſtices may take a Recogniſance of 20 l. of one convicted for killing of Hares, not ſo to offend again, upon 1 Jac. 27. So of him that is convict of killing Hares and Partridges, upon the ſame Statute, and 3 Jac. 13.

5. There muſt be 2. *quorum unus*, to bail a Priſonerailable for Felony; and there muſt be 2. Juſtices in all caſes, where any Statute-Law doth give 2. Juſtices power to bail.

6. And it ſeems, two may bind the Keepers of Ferries with Sureties, for the transporting of Men and Cattle over *Seavern*, that they paſſe none before Sun-riſing, or after Sun-ſet, out of *England* into *Wales*, or *Dean-Forreſt*, or from thence into *England*, upon 26 H. 8.

7. But any one Juſtice will ſerve to take a Recogniſance in a caſe, where by a Statute, one Juſtice is enabled to do it, as of ſuch as keep or uſe Howſes of unlawful Games; or of the Maſter that ſhall abuſe his Servant for his appearance at Sessions; or of him that is robbed, that intends to be relieved againſt the Hundred; or of ſuch Hawk-ers as take Partridges in Corn; or of ſuch as are ſuſpect to uſe Log-wood. And others, as of a Maſter to obey a Sessions-order, for the reſtraint of Malt-making.

E e

8. And

8. And any one Justice may take a Recognisance for the Peace or good Behaviour, or for a mans appearing at the Assizes or Sessions, as an offender, or to prosecute or give Evidence against an offender, and in some cases, to bail a prisoner. But there must be two Justices to bind Alehouse-keepers.

9. A Clerk within Orders, being principal, or accessory in Treason, Murder, Sacrilege, Burglary, Robbery, or House-breaking, may not be admitted to his purgation, nor be enlarged by the Ordinary, untill he shall have bound himself with two Sureties, before two Justices [*quorum unus*] to be of good Behaviour, upon 23 H. 8. 1.

10. And every Justice is to see to it, that the Recognisances that he alone, or he with any other Justice takes, be returned into the Assizes, or Sessions, as the case is, before the Judges, or Justices there; to the end they may proceed upon it, as by Law is required. So the Justices, at the next general Sessions, are to certify the Recognisances taken for keeping the Peace. 3 H. 7. chap. 1.

11. Here in Sessions, he that is bound by Recognisance, to the good Behaviour for 7. years, for unlawful hunting, breaking of the head of a Pond, or the like offence, upon his acknowledgement thereof, and giving of satisfaction to the party wronged, the Court may discharge him, either at this, or at any other Sessions. And if the offender shall at any open Sessions, confess his fault, and give satisfaction to the party wronged, he may release him within the seven years. 3 Jac. 13. 5 Eliz. 21. 12. If

12. If a Justice grant Surety of the Peace, at the request of another, and a Recognisance is given to keep the Peace against *A.* only; in this case, *A.* before the next Sessions may release it, and none other; and this Release being certified; will discharge the party of his appearance.

Release of Surety of the Peace.

13. If a Justice upon his own discretion, compel one to give Sureties for the Peace untill a day; he may also at his own discretion, release the party thereof, before the day, if it be not forfeited, and this Release will discharge his Bond for his Appearance.

14. If one be bound to the Peace during life, or generally without any time or day limited; In this case it seems, that neither the King, nor the Justices, nor party, can discharge the Recognisance, during the life of the party bound. *Lamb. J. P. 103.*

15. If the Recognisance be to keep the Peace *versus cunctum populum, & precipue vers. J. S.* yet J. S. may release it. And yet in these Cases, albeit the Surety of the Peace be released, yet the Recognisance is not to be cancelled; for perhaps it was forfeit before the Release made, but it must be certified with the Release into the Sessions.

16. It is said, that a Justice of Peace may not bind over an offender against a penall Law, within the Justices Comsuance, upon the Law, or by the Commission, except it be in a special

Bind over.

case where the Statute it self doth enable him to do it. And yet some would have it otherwise.

S E C T. III.

Presidents for Recognisances.

Every Recognisance must have these things in it.

1. The time of making it.
2. The Justices name before whom.
3. The names of the persons bound, with the additions of their places of Habitation, Trade, &c.
4. The sum they are bound in.
5. It must be made to the King, and in his own name.
6. If for the Peace, to appear at the next Sessions of the Peace; if for Felony, at the next Goal-Delivery after this manner.
7. And all this must be in *Latine*, and may not be in *English*.
8. It is best to make them in Parchment; but being in Paper, they are good in Law.
9. What Sureties to have, and in what summ to be bound, is left to the Justices discretion. But if the Justice do it upon a Statute-Law, which doth set down what Sureties shall be taken, or what sum shall be given, then he is not to do it otherwise.

10. The

10. The Justice need not to affix his Seal to the Recognisance taken before him.

The Recognisance.

Memorand. quod primo die Decemb. Anno Regni Domini nostri Caroli Secundi, Dei gratia, Anglia Scotie, Francia, & Hibernia Regis, fidei defensoris, &c. duodecimo A. B. de D. in Cem. G. Husbandman, in propria persona sua venit coram me W. S. armigero, uno iusticiario, dicti Domini Regis ad pacem in dicto Comitatu conservandam assignat. & assumpsit pro seipso sub poena 10 l. legalis monete Anglia; & C. D. de L. in dict. Com. G. Yeoman, & E. F. de K. in dict. Com. G. Gentleman, tunc & ibidem in propriis personis suis similiter venerunt, & manu ceperunt pro predicto A. B. videlicet uterque eorum separatim sub poena quinque librarum de bonis & catallis, terris & tenementis suis ad opus dicti Domini Regis levand. sub conditione indorsata, viz.

Or. thus, Memorandum quod primo, & c. A. B. de & c. C. D. de & c. et E. F. de & c. in propriis personis suis venerunt coram me W. S. & c. et conjunctim, et divisim, cognoverunt se debere dicti Domini Regi quadraginta libras de bonis, & c. sub conditione indorsata.

Every Condition of a Recognizance must have these things.

1. It may be in *English*.
2. It must have the first words. *The Condition of this Recognizance is such, that, If the within bounden, A. B. & c.*

3. It must shew what he is bound to do, as personally to appear at the next Quarter-Sessions, to be holden for the County of G. and in the mean time, be of good Behaviour towards our Sovereign Lord the King, and all his people.

4. The close, thus, [that then this Recognisance to be voyd, or else to stand in force.]

5. All this may be upon the back of the Recognisance, or underneath it.

To keep the Peace.

The Condition, &c. as before to appear in Sessions, and shall, in the mean time, keep the Kings Majesties Peace, towards his Highness, and all his liege People; and especially towards K. L. of M. in the County of G. Yeoman, That then, &c.

For Appearance.

The Condition, &c. That if C. D. within-bownden, do and shall personally appear, at the next general Goal-Delivery, to be holden in the County of G. before the Judges there, or at the general Sessions of the Peace, to be held for the said County at the next Sessions, &c. then and there, &c.

A Recognisance entred into by A. B.

To prefer a Bill of Indictment.

The Condition, &c. as before for appearance in Sessions, and shall then and there prefer a Bill of Indictment against L. M. N. O. P. Q. for a Felony which he hath laid to their charge (*viz.*) for stealing 3. Sheep, and shall then and there give evidence against the said L. M. N. O. P. Q. as well to indict, as to find them guilty of the Felony, that then, &c.

And to give Evidence.

Or

Or thus.

And do at the next general Goal-Delivery, to be holden for the said County, preferre or cause to be preferred, and framed one Bill of Indictment against *L. M.* for a Felony charged before the said Justice, by the abovesaid *A. B.* with the felonious taking 20 Sheep of his, and shall then also give Evidence there, concerning the same, as well to the Jurors that shall then enquire of the said Felony; as also, to them that shall passe upon the Tryal of the said *L. M.* that then, &c.

Or thus: Then and there in due form of Law, to prosecute and give Evidence against *L. M.* concerning the felonious stealing of, &c.

The like.

The Condition, &c. [as before for Appearance] then and there to make answer, concerning the stealing of one Cow from *A. B.* whereof he stands accused, and all other matters which on his Majesties behalf, shall be then and there objected against him, and abide such order therein, as the Court shall think fit, and not to depart the Court without licence thereof.

To appear to answer a Felony.

The Condition, &c. That whereas the within bounden *E. D.* is admitted and allowed by the within named *A. B.* and *L. M.* two of His Majesties Justices of Peace of the County of *G.* to keep a common Alehouse, or Tipling-house, and to use common selling of Ale or

For an Ale-house-keeper.

3. It must shew what he is bound to do, as personally to appear at the next Quarter-Sessions, to be holden for the County of *G.* and in the mean time, be of good Behaviour towards our Sovereign Lord the King, and all his people.

4. The close, thus, [that then this Recognisance to be voyd, or else to stand in force.]

5. All this may be upon the back of the Recognisance, or underneath it.

To keep the Peace.

The Condition, &c. as before to appear in Sessions, and shall, in the mean time, keep the Kings Majesties Peace, towards his Highness, and all his liege People; and especially towards *K. L. of M.* in the County of *G.* Yeoman, That then, &c.

For Appearance.

The Condition, &c. That if *C. D.* within bounden, do and shall personally appear, at the next general Goal-Delivery, to be holden in the County of *G.* before the Judges there, or at the general Sessions of the Peace, to be held for the said County at the next Sessions, &c. then and there, &c.

A Recognisance entred into by A. B.

To prefer a Bill of Indictment,

The Condition, &c. as before for appearance in Sessions, and shall then and there prefer a Bill of Indictment against *L. M. N. O. P. Q.* for a Felony which he hath laid to their charge (*viz.*) for stealing 3. Sheep, and shall then and there give evidence against the said *L. M. N. O. P. Q.* as well to indict, as to find them guilty of the Felony, that then, &c.

And to give Evidence,

Or

Or thus.

And do at the next general Goal-Delivery, to be holden for the said County, preferre or cause to be preferred, and framed one Bill of Indictment against *L. M.* for a Felony charged before the said Justice, by the abovesaid *A. B.* with the felonious taking 20 Sheep of his, and shall then also give Evidence there, concerning the same, as well to the Jurors that shall then enquire of the said Felony; as also, to them that shall passe upon the Tryal of the said *L. M.* that then, &c.

Or thus: Then and there in due form of Law, to prosecute and give Evidence against *L. M.* concerning the felonious stealing of, &c.

The like.

The Condition, &c. [as before for Appearance] then and there to make answer, concerning the stealing of one Cow from *A. B.* whereof he stands accused, and all other matters which on his Majesties behalf, shall be then and there objected against him, and abide such order therein, as the Court shall think fit, and not to depart the Court without licence thereof.

To appear to answer a Felony.

The Condition, &c. That whereas the within bounden *E. D.* is admitted and allowed by the within named *A. B.* and *L. M.* two of His Majesties Justices of Peace of the County of *G.* to keep a common Alehouse, or Tipling-house, and to use common selling of Ale or

For an Ale-house-keeper.

Beer, within the now House of *C. D.* & not else where, situate in the Town of *Dale*, called the Sign of the *Hart*; if therefore the said *C. D.* during such time as he shall keep such common Alehouse there, shall not suffer any unlawful play, at Tables, Dice, Cards, Tennis, Bowls, Coyts, Loggets, or other unlawful Games, to be used in his said House, or in his Garden, Orchard, or other ground or place; nor dress, or cause, or suffer to be dressed, any flesh to be eaten, upon any day forbidden by the Laws or Statutes of the Realm of *England*, nor wittingly, or willingly admit or receive into his said House, or any part thereof, any person notoriously defamed of, or for theft, incontineny, or drunkenness; or that shall be before-hand notified to him the said *C. D.* by the Constable of *D.* aforesaid, for the time being, or his Deputy, to be an unmeet person to be received into a common Alehouse; nor keep, nor lodge any strange person there, above one day, and one night together, without notice thereof given to the Constable of the place for the time being, And finally, if the said *C. D.* during all the time that he shall keep common selling of Ale or Beer, within the said House, shall, and will here keep, and maintain good order and rule, that then, &c.

That

That the said *A. B.* shall personally appear For the Peace at the next General Sessions of the Peace, to be holden for the said County. And, in the mean time, that he shall keep the peace towards our said *L. the King*, and all other the People of this Realm of *England*; and chiefly towards *L. M.* That then, &c.

That the said *A. B.* shall personally, &c. (as in the last.) And that in the mean time, he shall be of Good Behaviour towards our Lord the King, and all &c. (as in the last.) For the Good Behaviour.

The Condition; That if the within named *C. D.* shall appear in person at the next Gaol-delivery, to be held for the said County, to answer *L. M.* for the suspicion of a Felony, &c. Or if it be about other matters, To answer to all those things, which shall be then and there objected against him, &c. That then &c. To bail a Felon.

O: thus, in *Latine*.

Ad comparendum, ad proxim. Gaol, &c. Ad standum rectò de Felonia prædicta, ad respondendum dicto Domino Regi, &c.

If the Felon be in Prison, the Justice may send this Warrant: You are forthwith to bring before me the body of *C. D.* now in your custody, to be bailed, as Law requireth. Warrant to bring a Prisoner.

And these Recognizances being made, are to be ingrossed in Parchment, and subscribed with

About a Recognizance.

with the Justice's hand. But he that enters in-
to it, need not put his Hand or Seal to it.

2. It must be certified to the next Sessions, or
Gaol-Delivery, where the party is to appear,
3 *H. 7. 1.* 2 & 3 *Ph.* and *M.* 10. 1 & 2 *Ph.*
and *M.* 13.

The Justice is to enter it with himself, thus :

*A. B. De &c. 20 l. ad comparendum ad pro-
ximam Sessionem Pacis, & Conservare pacem,
versus C. D.*

T. H. de &c. 10 l.

C. L. de &c. 10 l.

Release and Liberate.

The Release of the Recognizance, is by the
same Justice, or some other ; and these words
under-written to the Recognizance.

Sect. 5.
Release.

*Ego prefatus W. S. qui supra-nominatum, A. B.
ad prædictam securitatem pacis inveniendam, ex
mea discretionis compuli ; eandem securitatem, de
se bene gerendo, quantum in me est, ex mea discre-
tione ; primo die Junii, Anno Domini, 16--- re-
misi & relaxavi. In cujus rei Testimonium huic
presenti Relaxationi mea sigillum meum apposui.
Datum, &c.*

Or thus :

*Ego &c. qui supra-nominatum J. D. ad præ-
dictam securitatem pacis inveniendam, &c. as in
the last,*

Or thus, by the party himself.

*Ad. quod 8. die Maii, Anno &c. prefatus
G. H. venit coram me W. J. & gratis remisit, &
relaxavit, quantum in se erat, prædictam securi-
tatem pacis per ipsum versus supra-nominatum
A. B. petitam. In cujus rei, &c.*

Sed

Sed quare, Of what use these Releases will be, +
save onely to make way at the Sessions, for the
discharge of the parties from their Recogni-
zance upon motion.

A. B. To the Keeper of the Gaol in the Castle of
Gloucester.

FOrasmuch, as W. of &c. hath before this found *Liberate.*
sufficient Mainprize, to appear before the Ju-
stices of the Gaol-Delivery, at the next General
Gaol-Delivery, so be holden in the said County; there
to answer the things that shall be objected against
him, touching the Felonious stealing of two sheep;
for the suspicion whereof, he was committed to your
Gaol. These are to require you, in case he be there
detained in Prison, for this, and no other cause, that
you forthwith deliver him, and let him go at large.
Given, &c.

Or thus:

A. B. &c. To the Keeper, &c. J. S. being by *Glouc.*
me committed to your Custody, in your Gaol, till he
put in Sureties for the Peace [or Good Behaviour]
as the Case is. These are, &c. [As it is in the
last.] By this others may be made,

Observation.

If one Justice of his own head commit a man
to Gaol, or to *Bridewell*, he may again deliver
him, without shewing of any cause. Or, if it be
for the Peace, or Good Behaviour, it is best for
him, and the Gaoler also; that he signifie to the
Keeper,

Keeper, that he hath taken Sureties for it, before he deliver him.

About Bail, or Bailment, upon 3 Ed. 6. Chap.

15. 1 and 2 M. Chap. 13. 3 H. 7. Chap. 3.

Sect. 6.

Mittimus.

Out of Sessions

Two Justices.

Not Bailable,

First, No Justices may bail or deliver out of Prison one there upon suspicion of Treason, or the death of a man where it is confessed, or so expressed in the *Mittimus*, *Westmin.* 1. 15 Ed. 3.

2. A man arrested, or imprisoned; and bailable for Felony, is to be bailed, before it appears whether he be guilty, or not: For if a man be convicted by Verdict, or Confession, &c. he is not bailable. So if the *Mittimus* be for a Felony confessed. *Coo. Instit.* 2 Part 178.

3. Any one Justice may bail a man in Prison, that is bailable by Law. But if the Prisoner be in Prison, upon a suspicion of Felony, there must be two or more Justices, and these present together, *Quorum unus*, to bail him. And they must take his Examination in Writing, and certify it to the next Gaol-Delivery. See for this my *Survey of the Justice-Office*, Chap. 3. Sect. 2. 1 and 2 Ph. M. 13.

4. Such as are in hold for the death of a man, by the Command of the King, or his Justices, or for the Forest; Persons out-lawed, that have abjured the Realm; Provers, and such as be taken in the manner; Prison-breakers; Thieves openly defamed and known; Apellees by Provers, [during the life of the Provers] House-burners,

burners, such as counterfeit the King's Seal, or Coyn; excommunicate persons, manifest Offenders, and Traytors, are not to be bailed, *West. 1.* But for lesser Felonies, and where the suspicion is but light, the Offenders are bailable, *3 Ed. 1. 15. 1 and 2 Ph. and M. 13.* and none others may be bailed, but in open Sessions, where the Justices have a greater power in this, then they have out of Sessions. See *Chap. 44. Recognizance.*

5. The Justice must not bail one that is not bailable by Law; but it is his duty to bail one that is bailable by Law; the Sureties, and Sum for the Bail-Bond, are in his discretion. But in case of Felony, for appearance upon Bail, he must take good Bail, or he may be fined, *Coo. Inst. 2 Part, 179.* If the Justices, in this Case, shall think the Sureties insufficient, they may compel the party bayled, to put in better Security, or to commit him to Gaol, for lack of Bail.

6. It is said also, that if the Sureties doubt the Prisoner, that he will run away, and not appear, that they may take him, and carry him to the Justice, and desire to be discharged, and that the Justices must discharge them: And that the Principal is then to be committed, till he put in new Sureties. *New Bail.*

About a Superfedeas.

W. S. To the Sheriff, Bayliffs, Constables, and other the Officers and Ministers of our Lord the King, for the keeping of the Peace within the Countrey of Gloucester; and every of them.

Secd. 7.

FOrasmuch, as A. B. of &c. hath personally come before me at Dale, in this Countrey, and hath found sufficient Sureties, that C. D. of &c. E. T. of &c. either of which hath undertaken for the said A. B. under pain of ten pounds a piece; and he the said A. B. hath undertaken for himself, under pain of 20 l. that he the said A. B. shall well and truly keep the peace towards our Sovereign Lord the King, and all his People, especially towards J. F. of &c. Yeoman: And also, that he shall personally appear before the Justices of the Peace of the said Countrey, at the next General Session of the Peace, to be held for the same Countrey. Therefore I command you, and every of you, that you utterly forbear, and surcease to arrest, take, imprison, or otherwise, by any means, for the said cause, to molest the said A. B. And if you have for the said cause, and none other, taken and imprisoned him; that then you do cause him to be delivered, and set at liberty, without further delay. Given at Dale aforesaid, under my Hand and Seal, &c.

There may be a *Superfedeas*, in case of Feltony, where the Prisoner is bailed, thus: Because A. B. of &c. hath come before us, &c. and

and put in sufficient Bail to be before, &c. to answer the Felony wherewith he is charged.

This may also be to stay proceedings of Arrest or Imprisonment against a man, upon Good Behaviour, or upon a *Capias*, upon an Indictment for Trespass, or the like.

A President.

W. S. Forasmuch, &c. I do therefore require you, that from compelling and imprisoning the said A. and his Wife, or either of them, any Security for the Peace, towards our Lord the King, and all the People of this Common-Wealth, before you, or any of you, again to find; you do supersede, or Cause to be superseded: And if &c. that then you do immediately turn out of such Prisons, in which they, or either of them, are detained; deliver, or cause to be delivered, &c.

CHAP. XLV.

About a Riot, Rout, and Forcible Entry.

1. **N**One may enter into, or detain any Lands, or Church-Livings, with force, in pain of Fine and Imprisonment. And if any do so, any one, or more Justices, (if it be in a County) or the chief Officer in a Corporation, may, upon complaint hereof, go to the place; and (if need be) take the Sheriff with the *Posse Comitatus*, and view it; and, if it continue, re-
move

Out of Sessions

move the Force ; and, as some say, fine the Offenders, and send them to Gaol, till the Fine be paid, or secured ; and, upon his own view, record all this, and send it into the Kings-Bench, or Quarter-Sessions, at his choice. But if the Force be past, he is, within a moneth after complaint, to send to the Sheriff, to return a Jury, and charge them to enquire of it ; and if they find it, send his Warrant to the Sheriff, to restore the party to his Possession again, unless the case be so, that he that is in Possession hath held it peaceably for 3 years, upon 5 R. 2. Chap. 7. 15 R. 2. Chap. 2. 8 H. 6. Chap. 9. 31 Eliz. Chap. 11. 21 Jac. Chap. 15.

2. And in case of a Ryot, Rout, or unlawful Assembly ; upon complaint, any one, or more Justices, must, *subpoena* 100 l. [if need be] with the Sheriff, and his *Posse Comitatus*, as in the Case of a Forcible Entry, go to the place and view it; if it continue, to quiet and suppress it, disarm the Ryotors, bind them with Sureties to the Good Behaviour ; and, if they refuse, send them to Gaol, and record what he hath done.

Out of sessions

+ pag. 500, &c.

3. If the Force be past, he must take with him one more Justice at the least, and one of them must be of the *Quorum*, and send to the Sheriff for a Jury, keep a special Sessions, and enquire, as in case of a Forcible Entry ; and if the Jury find it, fine the Ryotors, and send them to Gaol, till they pay their Fine, upon 17 R. 2. 8. 1 H. 5. Chap. 4. 13 H. 4. Chap. 7. 19 H. 7. Chap. 13. 2 H. 5. Chap. 9. 8 H. 6. Chap. 14. But see for these things more, in my *Survey of the Justices*

Justices Office, Chap. 3. Sect. 18. and 46. and in the other Books of this Office.

4. The Justices may refuse to send away an Indictment for any Forcible Entry, Ryot, Assault and Battery, upon any *Habeas Corpus*, or the like Writ, unless the Writ be delivered to the Justices in their Sessions sitting; and unless the party indicted, will enter into Bond there with good Sureties, to pay the Prosecutor his costs. But in case of an Indictment for a Forcible Detainer, or other offence, it is otherwise, upon 21 *Jac. Chap. 8.*

Indictment for a Ryot.

Juratores pro Domino Rege presentant super sacramentum suum; quod A. B. de C. in Com. predicto Yeoman; C. D. de eadem in Com. predicto Yeoman; & E. F. de W. in Com. predicto Yeoman; primo die Maii, Anno Regni dicti Domini Regis nunc &c. vi & armis apud parochiam predictam in Com. predicto riotose routose & illicite assembler, congregaver, coadunaver, & aggregaver, ad intentionem dicti Domini Regis perturband. Et illi sic ut presertur tunc & ibidem vi & armis riotose, routose & illicite assemblati congregati coadunati, & aggregati existent, inter seipsos, in & super quoddam Clausum Pastura soli ibidem conjunct. vocat. per nomen De le homeclose cujusdam W. Yeoman, tunc & ibidem vi & armis &c. riotose, & routose & illicite fregerunt, & intraverunt, & herbam tunc & ibidem crescent. in Clauso predicto existent. predict. J. S. ad valentiam quinque librarum ad tunc &
F f *ibidem*

*ibidem vi & armis, &c. riotose, & routose, & illi-
cite falcaver. succiderunt, ceperunt, & asportaver. &
alia enormia præfat. J. H. ad tunc & ibidem fece-
runt, ad grave dampnum ipsius præfat. W. ad
malum exemplum omnium aliorum in hujusmodi
casu offendent. & contra pacem D:mini Regis nunc
&c.*

For a Forcible Entry.

INquisitio indentata capt. apud A. in loco præ-
dict. primo die &c. coram C. D. & E. F. Ar-
migeris, Justiciariis dicti Domini Regis ad pacem
in Com. prædict. conservand. nec non ad diversa
Felonia, transgressiones, & alia Malesacta in eodem
Comitatu perpetrat. aud. end. & terminand. assign-
natis, per Sacramentum. A. B. C. D. &c. probor-
um & legalium hominum Comitatus prædict. Qui
jurati & omerati dicunt super sacramentum suum,
quod A. B. nuper de C. in Comitatu prædict. Yeo-
man, & C. D. &c. primo die Maii, &c. vi &
armis illicite & manu forti ad parochiam de G. in
Comitatu prædicto in unum mesuagium cum perti-
nen. ad tunc & ibidem in possessione T. W. tunc te-
nentis eiusdem, pro quodam termino Annorum, tunc
& m. d. ventur. ad tunc & ibidem intraverunt &
intratiorem fecerunt & prædict. T. W. ad tunc &
ibidem vi & armis prædictis, illicite & manu forti
à possessione inde expulerunt & ececerunt & prædict.
T. W. sic ut præfertur, vi & armis supradict. illi-
cite & manu forti expulsam & ejectam a mesua-
gio prædict. cum pertinentiis, a prædicto primo die
Maii, Anno &c. usque diem captionis hujus In-
quisitionis vi & armis prædict. ad parochiam de C.
prædict.

prædict. in Cem. prædict. illicite et manu forti extratenuerunt, et adhuc extratenent, contra formam Statutorum in huiusmodi casu editorum et provisorum, et contra pacem dict. Domini Regis nunc, &c. See more Presidents in *Justice restored*, Page 112, 113, 114, 115, 116, 117. And my first Book of *Justice of Peace*, Chap. 14. throughout. And see my *Surveigh* of this Office, Chap. 18. And because there is some difficulty in the doing of this work. it will be the wisdom of every Justice, to call in for the help of some, or (at the least) one of his fellow-Justices in it.

CHAP. XLVI.

About a Testimonial, or Certificate.

i. **T**HE Clerk of the Crown, being sent to by the Justices of Peace, for the name of a person Convict of any Felony, or either offence, and certified into the Kings-Bench, shall forthwith send it to them, in pain of 40 s. upon 34 H.8 Chap. 14.

2. One Justice may take and certifie in Chancery, the submission and oath of a Jesuit or Priest, given within three days of his landing in England, upon 27 Eliz. 2.

3. One Justice may certifie deceiveable Cloth, upon 21 Jac. 18.

4. So one Justice may give a Testimonial

About a Testimonial, or Certificate.

to a Labourer, to go into another Countrey to work in Harvett-time, upon 5 *Eliz.* 4.

5. So one Justice may serve, with the Constable or Minister, to give a Testimonial of the whipping of a Rogue, and appoint him whither to go, upon 39. *Eliz.* 4.

6. So one is enough to certifie the Examinations of a *Dyer*, and his Servants, about *Logwood*.

7. So to give a Testimonial, of the landing of a Souldier or Mariner, and to appoint him whither to go, upon 39 *Eliz.* 17.

8. So to joyn with a Customer, to certifie the unlading and selling of Corn or Cattle, carryed from one part to another, upon 5 & 6 *Ed.* 6. 14.

9. And one Justice may certifie Recognizances and Examinations taken by himself alone. But if taken by him, and any other, both must certifie them.

10. There must be two Justices, to give a Testimonial to a Servant of his departing out of his Masters Service with his good-will, upon 5 *Eliz.* 4.

11. And there must be two, *quorum unus*, to certifie into the Sessions, that an Alehouse-keeper doth sell Ale without License, upon 5 and 6 *Ed.* 6. *Chap.* 25.

12. And there must be three to certifie under their Hands and Seals the worth of Parents of Children, to be taken as Apprentices, to Clothiers or Merchants, upon 5 *Eliz.* 4.

13. The Clerk of the Crown, Assize, and Peace, are to certifie into the Kings-Bench, the tenour of every Indictment, Outlawry, or Conviction,

viction and Clerk Attaint, had before either of them respectively, for any Felony, or other offence, within 40 days of the Attainder, Conviction, or Outlawry, (if it be Term-time) otherwise within 40 days; otherwise, within 20 days of the first day of the next Term. And the Clerk of the Crown being sent to by the Justices of Peace, for the name of any person so convicted and certified, are without delay, to send them a Certificate thereof, in pain of 40 s. upon 34 *H. 8. 14. 18 Eliz. 7.*

14. The Justices at Sessions are to certify a Presentment, when it comes in before them, of one that denyes the Kings Supremacy, within 40 days, into the Kings-Bench, in pain of 100 l. upon 5 *Eliz. 1. See Chap. 14.*

15. They also are to make some other Certificates, upon Popish Priests and Recusants: Which see in *Chap. 14.*

CHAP. XLVII.

About Trespasses in Orchards, Woods, &c.

ANy one Justice of Peace where the offence is committed, or Offender apprehended, (but he that is interessed in the matter) may upon Oath of one sufficient Witness, or the parties Confession; for the first offence, appoint such recompence to be given to the party grieved, as the Justice shall think fit, by any mean

or lewd person, that shall cut, or carry away Corn, or Hay; rob Orchards or Gardens; break, or cut any Hedge, Pale, Rail or Fence; dig, pull up, or take away any Fruit-Trees, cut or spoil any Woods, underwoods, Poles or Trees standing, (not being Felony) and their procurors and receivers. And if he judge him in his discretion unable to give satisfaction, or he do not make satisfaction according to the order, then he may make the Constable, or other Officer of the places where the offence is done, or he is taken, to whip him, or cause him to be whipped. And if the Officer do not whip him, the Justice may commit the Officer to prison without bail, till he cause him to be whipped, but this is to be in Sessions; and for a second offence, the like punishment is to be inflicted on the Robber, &c. And (if he be a common offender herein) the Justice may bind him to the good behaviour, and to appear at Sessions, or send him to the House of Correction. The Justices have some power about Watches and Wards. And therefore it is by 5 H. 4. 3. provided, That in every Commission of the Peace hereafter to be made, this is to be inserted, That the Justices have power in their Sessions, to enquire of Watches, and to punish them who shall be found guilty, according to the Tenor of the Statute of *Winchester*. And it hath been resolved by the Judges 1633. that Warding is of great use, and it is left to the discretion of the Constables, or direction of the Justices, to vary therein, according to occasion. And the course is, that one Justice may cause Watches to be set from Sun to Sun, from *Ascension*

Ascension

session to Michaelmas. But it is fitter to be done by more Justices at their meeting; and one may punish neglect, haply, by putting a man to give Sureties for the good Behaviour. But it is best, to have the party indicted, and so fined for the offence. 43 Eliz. 7. 7 Car. 1. *Dalt.* J.S. chap. 48.

CHAP. XLVIII.

About Wine, upon the Statute of Gloucester. 28 H. 8. 14. 7 Ed. 6. 5. and other Statutes.

There are many Provisions made about this by these and other Statutes. As (1) That Wines shall be sold at a reasonable price.

(2) That tryal be made of them twice a year. In the Sessions,

(3) That the L. Chancellor and others may set down the prices of all sorts of Wines, and make Proclamation thereof, and that none shall take above those prices. Whereof the Justices may hear and determine any offence against this Statute of 28 H. 8. 14. And if any refuse to sell their Wine at those Rates, the Maior, Recorder, and two ancient Aldermen (in *London*); in other places, the Bailiff, Bailiffs, Aldermen, or other Officers (whereof the Chief Officer is to be one) may enter into their Houses, and sell it at that Rate so set down by the Lord Chancellor, and the rest. It is also by 7 E. 6. 5. provided,

1. E. 6. 5.

1. That none sell Wine by Re-rail, in any place but in Burrows, Port-Towns, or Market-Towns, or in *Gravesend, Sittingborn, Tenx-ford,*

or *Bagshot*, in pain of 10 l. a day for every day he sells.

In the Sessions

2. That none may sell Wine by Re-tail, in any City, Burrow, or Corporation, but by license of the most part of the Common Council, Aldermen, Burgeffes, or Communalty there, under their Common Seal, nor in any City, Burrow, Port-Town, or Market-Town not corporate, without License of the Justices of the Peace in Sessions, under their Seal, under pain of 5 l. for every day they so sell, that is, none may sell by Re-tail in his own House, by License of Justices, nor at all may he sell or utter to others of other Houses, in such a place, without License of the Justices. And these Officers and Justices, may change such Licenses at their pleasure.

3. These Officers and Justices, may not License above two in a place. And in the places named in the Statute, they are to License no more then the number limited by the Statute, in pain of 5 l. a peece. But the Justices have nothing to do, but upon 28 H.8.14. and 7 Ed.6.5. And thereupon, nothing out of, but all within their Sessions, save onely that Justices may enter into a Merchants House, which denies to tell Wine at the price assessed, and sell the Wine, by 24 H.8.6. 37 H.8.23. 5 Ed.6.17.

CHAP. L.

About Weights and Measures, upon Magna Charta 25. Assisa panis & cerevicia Stat. of Pillorie and Tumbrel de pistoribus, and 14 Ed. 3. 12. 25 Ed. 3. 9, 10. 2 H. 6. 11. 8 H. 6. 5. 9 H. 6. 8. 7 H. 7. 4. 16 & 17 Car. 19. and divers other Statutes.

THere are in these Statutes very many Provisions about this matter.

1. That there is to be but one Measure and Weight for all things in the Nation, and this according to the Kings Standard.

Sect. 1.

2. The Assize of Bread is set, and according to this it is to go.

3. If Bakers do not observe it, they are to be severely punished, by the Pillory and otherwise.

4. The Assize of Bread and Beer, is to be according to the prizes of Corn.

Assize of Bread and Beer.

5. The Tun of Wine is to be 252 Gallons, English measure, the Pipe 126 Gallons, the Barrel of Herrings or Eeles, 30 Gallons, the But of Salmon 84 Gallons, and so of lesser measures, after the same Rate, upon 2 H. 6. 11.

6. Every City, Borough and Town, is to have a common Ballance, with common Weights, sealed according to the Standard of the Exchequer, at the Town-charge, in the keeping of the head-Officer there, in pain of 10l. to a City, 5l. to a Borough, and 40s.

to

to a Town, upon 8 H. 6. 5. 8. 11 H. 6. 8.

7. There shall be Measures and Weights of Brasse, sent to Cities and Burroughs; after this, all the Measures and Weights of the Countrey, are to be regulated. And the Maior is to have, and set a special mark or Seal, upon all the Weights and Measures he alloweth, and to take what is set down in the Statute for it. If he refuse, or delay to seal them, he forfeits 40 s. upon 7 H. 7. 4.

In a special Sessions, or in the general Sessions.

8. Maiors and chief Officers, must once a year, view all the Measures and Weights within their limits, and break or burn them, which they find defective, and inflict upon the offenders, for the first offence 6 s. 8 d. for the second offence 13 s. 4 d. and for the third offence 20 s. upon 11 H. 7. 4.

9. Two Justices *quorum unus*, may hear and determine the offences of Maiors and Head-Officers, and others herein, and set Fines and Amerciaments on the offenders, and to take as forfeit the defective Weights to burn, upon 11 H. 7. 4.

Sect. 2.

10. The Justices in their Sessions, have power to hear and determine the offences of 8 H. 6. 5. 8. and 7 H. 7. 4. and 2 H. 6. 11. But he can do nothing upon any of them, without the Sessions.

11. By 16. 17. Car. 1. 19. 17. 'Tis provided,

1. That there be but one Weight and Measure, (except for Rent-Corn, and Water-measure) and that according to the Standard; and Corn shall be stricken.

2. That

2. That all that have by Office to do with it to over-look it, are to do their Offices; and that if any of them seal any Weight or Measure, not according to the Standard, or refuse to Seal one, that is according to the Standard, he shall forfeit 3 l. to the use of the poor.

3. If any of them take more for Fee, then what is allowed, or otherwise misdemean himself in his Office, he shall forfeit for the first offence 5 l. for the second 10 l. for the third offence 20 l. to the use of the poor.

4. If any Officer be sued upon this Statute, he may plead the general Issue; and if it go for him, shall recover treble Costs. And now upon this Statute, all that is to be done out of Sessions, is, That any one Justice, upon proof, by the Oath of one Witness, that a man hath bought or sold by, or doth keep any other weight or measure, whereby any thing is bought or sold then, according to the Standard, may send his Warrant to the Churchwardens, and Overseers of the poor of the place where, &c. or one of them, to give them notice thereof, who are thereupon by their Offices, to levie by distress and sale of goods, 1 s. rendring, &c. And if there be no distress, the words of the Law are, That any Justices may send the offender to the Goal, till he pay the forfeiture. By which, it seems, any two Justices are empowered to do it.

CHAP. LI.

Of the Justices Office in divers other things.

SECT. I.

*About Accompts.**Our of Sessions
Sess. 1.*

ANy two Justices may call all the old Treasurers formerly made, that have not accounted their Executors or Administrators to an Account, and force them to pay to the present Treasurers, the money in their hands, upon 14 Car. 2.

Any one Justice of the City and Countie of Warwick, and two Justices of the Countie of Norfolk, may joyn with the Maior of Norwich, to take the Account of the Wardens there, for the regulating of the making of Stuffs in Norwich and Norfolk, by 14 Car. 2.

SECT. II.

*About Armour, and Armed men.**Sess. 2.*

AS to this it is to be known. 1. That none are to come with force and Arms before the Kings Justices, or other Ministers, nor go or ride armed in affray of the Peace, on pain to forfeit their Armour, and suffer Imprisonment

at the Kings pleasure. And Justices of Peace have power to put this Act in execution. And if not, the Justices of Assize may enquire of their default herein. 2 Pet. 3. 3. In the Sessions;

2. That any Justice may disarm any man that is brought before him, on suspicion of crime. Out of Sessions

3. That if any Justice of Peace, shall see any man go, or ride Armed, in an unusual way, (with secret Coats of Mail, Daggs, Pistolls, and the like) by day or by night, to the terror of the people; he may (if he think fit), and ought (if he see it necessary) to cause them to be disarmed, and bound to the Peace. And yet Souldiers and Officers, in the doing of Justice, may go armed, and are not to be interrupted.

SECT. III.

About Archery, Guns, Cross-bowes, Playes, and Games, upon 33 H. 8. chap. 9.

1. **A**ny one Justice may enquire into the Execution of the Statute of 33 H. 8. chap. 9. about Bowes and Arrowes, and acquaint the Sessions with what he findeth, and one Justice upon examination, which (as it seems) must be of the party himself, may commit to Goal him that is found to shoot in, carry, keep, use, or have in his house, any Gun, Cross-bow, Dag, Pistoll, or Stone-bow, against 33 H. 8. chap. 6. And where he finds it, he must estreat the 10 l. into the Exchequer, against such as shall be convicted before him of this offence. Out of Sessions

2. Any

In the Sessions.

2. Any Justice of a County, or head-Officer of a Corporation; may go into any place, where he suspects Carding, Dycing, or unlawful Games to be used, and imprison such as keep or use them, untill they give Sureties not to use them any more.

3. All the offences against this Statute about unlawful Games, Archery, shooting in Guns, are to be heard and determined in the Sessions; and the Justices out of Sessions, have nothing to do therein, otherwise than as aforesaid. 2 & 3 Ed. 6. chap. 14. 2 & 3 Phil. and Mar. chap. 9. And know, that the Acts or Ordinances about Stage-playes, May-poles and Cock-matches of 11 Febr. 1647. and 6. of April 1644. 31 March 1654. 17 of Septemb. 1656. are not of any use to us at this day. But the Statute of 3 Jac. chap. 21. forbidding the abuse of the name of either of the Persons of the Trinity in such playes, is still in force. But the Justices have nothing to do upon this Statute, either within, or without their Sessions. 1 Car. 2. Phil. & M. 13.

SECT. IV.

About Butter and Cheese.

NOne but Inholders and Victuallers in their House, may buy Butter or Cheese to sell again, but by re-rail in open Shop, Fair, or Market, and so not above a Weight of Cheese, or Barrel of Butter at one time, in pain to forfeit double

double the value. But in *London, Westminster,* and *Southwark*, the Re-tailers of Cheese, that have served 7. years at the Trade, and that utter not above 4. Weight of Cheese, and 4. Barrels of Butter at one time, are excepted and allowed so to buy and sell. And this shall not be called Forestalling, &c. upon 3 *Ed. 6. 21. 21 Jac. 21.* Justices of the Peace in their Sessions, may restrain the Re-tailing of Butter and Cheese, and during that time, it will be unlawful, upon 21 *Jac. 22.*

The Justices of the Peace, are to hear and determine all the offences in and about the weight, or false packing of Butter upon this Act. But we find nothing for them to do herein out of Sessions. See the Statute 14 *Car. 2.*

About Cattle.

He that keeps above 120 Sheep, or 20 Beasts, upon several Pasture-ground, apart for Milk-kine, and not Commonable, shall alwayes keep for every 60 Sheep, or 10 Beasts, a Milch Cow; and for every 120 Sheep, or 20 Beasts, rear up one Calf, in pain of 20 s. forfeit for every Cow not so kept, and every Calf not so reared. But this is not to be extended to such as feed Sheep, or Beasts for their own Provision.

The Justices in their Sessions, may hear and determine this offence. See fore-stalling, &c. In the Sessions;

About Wax, upon 11 *H. 6. chap. 12.*

No Wax-Chandler, may put to sale any Candles;

Candles, or Ware made of Wax, at a dearer rate then to have onely 4 d. in every pound of Wares, above the common price of plain Wax, in pain to forfeit the Wares sold, and value thereof, and so be fined also. And this, Justices may hear and determine, but it must be in the Sessions. And for mingling Wax, upon 23 *Eliz.* chap. 8. the Justices have not at all to do with in, or without their Sessions.

SECT. V.

About Money.

1. **B** Lack money is not currant here, 9 *Ed.* 3. chap. 1. False or counterfeit, and clipt money is not to be received here. Forreign Coyn is not to be allowed here. 17 *R.* 2. 1. 3 *H.* 5. 1. No *English* Gold can be forced to be received in payment, but by the Kings Weight. 9 *H.* 5. 11.

2. Gally half pence are not current here.

3. The money called Blanks is forbidden. 2 *H.* 6. 9. But all other money, either of our own, or of a forreign Countries Coyn; that by the Kings Proclamation is allowed for good, is to be accounted good, and to be payd and received for good money.

4. All Coyns of Gold and Silver, now currant here, shall so continue, for the value they were coyned for, albeit they be cracked; so as they be not clipt, or otherwise diminished, reasonable wearing being excepted by *H.* 7. ch. 5.

5. If

5. If any refuse any lawful Coyn in payment, he is to be compelled by the Officer of the place to take it, and imprisoned, or otherwise punished, as such Officer shall think fit. And if a Sheriff, or other Officer refuse it, he may be compelled to take it by a Justice of Peace, and otherwise punished at the Justices discretion, upon 19 H.7.5. But Quære, how. It may be, he may bind them to the good Behaviour, for a wilful contempt herein. It is safe to do it in Sessions: we do not find any power given to Justices, against them that import into the Realm bad money, or export Gold, Silver, or other Money, or any other way offend about money, upon Statute of Groat-money, *incerti temporis*. 9 Ed.3.1. 18 Ed.3. Stat.26. 25 Ed.3. Stat.5.13. 38 Ed.3. Stat.1.1. 5 R.2.2. 4 Jac. 1. 17 R.2.1. 2 H.4.5. 11 H.4.5. 13 H.4.6. 1 Ed.6.12. 5 Eliz.11. 2 H.6.6.9. 19 H.7.5. unless it be what is given to them, by 3 H.5.7. by which they have given to them to hear and determine all offences concerning false money.

In, or out of
Sessions.

SECT. VI.

About the Plague, by 31 Eliz.

THe Maior, or other Head-Officer, and Justices of Peace in any Corporation, or any two of them where the Plague is (out of Universities, Cathedral Churches and Colledges) may do these following things:

G^g

1. They

Appoint Of-
ficers.

Make a Rate.

1. They may appoint Officers to search, watch, examine, keep, and bury the sick, and dead.

2. They may Rate the Inhabitants, and send their Warrant under their Hands and Seals, to any person to levie it upon the Goods of such as refuse to pay. Or if there be no distress, upon refusal, to commit the party to prison, till the Rate be p yd.

3. In places Corporate, where no Justices are, and in the County, any two Justices may make a Rate, and charge the places about the infected place for 5 miles, and cause it to be levied by distress as aforesaid.

4. All these Rates are to be sent to, and to be ordered by the Sessions.

5. If the Corporation be not able to relieve their sick, upon a Certificate thereof from the Officers of the Town, to the Justices of the County thereunto adjoyning, or two of them; they may also set a Rate upon all the places thereabouts, within 5 miles of the Corporation that is infected, and cause it to be levied as before.

Out of Sessions

Felon.

6. If any infected person dwelling in any House, be commanded by a Justice, or other Officer, to keep in his House, and he go forth, the Watchmen may resist him, and keep him in.

7. If such an infected person, having the Plague-sore upon him, go amongst Company, this is Felony, and he shall be punished as a Felon.

8. If

8. If he have no fore upon him, he shall be punished as a Vagabond, by 39 Eliz. 4. And all this by 1 Jac. 31.

SECT. VII.

About Pawter and Brasse.

ALL that the Justices have to do, in, or out of the Sessions, about this, is to appoint two experienced persons, to make search thereof, by 19 H.7.6. 4 H.8.7. Out of Sessions

About Physicians.

Justices of Peace, Maiors, Sheriffs, Bayliffs and Constables, must assist the President or Commonalty of the Faculty, of Physick in London, grounded upon the 14 H. 8. chap. 5. and all persons authorized by the Colledge to search for, and apprehend and commit offenders against that Statute, and in the execution of that Statute. Out of Sessions

About a Prophecie.

None may set forth any Phantastical or false Prophecie, with an intent to raise sedition, in pain for the first offence of 10 l. and a years Imprisonment; and for the second offence of all his Goods, and imprisonment during life. And this offence, the justices may hear and determine in their Sessions, upon 5 Eliz. 2. 15. In the Sessions

About Hue and Cry.

Out of Sessions

Every Justice is to promote Hue and Cry after a Felon. And if any fault be in any Officer in the pursuit thereof, the Justice may perhaps bind him to the good Behaviour (for his neglect) and to appear at the next Sessions, by 27 Eliz. 13.

About Night-walkers.

In, or out of Sessions.

As to Night-walkers that are dangerous persons, who have little to live upon, sleep by day, and walk abroad by night, that are suspect to live by dishonest means, any one Justice may put them to give Surety for their good Behaviour, and to appear at Sessions, upon Information upon Oath given in to him, otherwise send him to Goal, if he refuse. And know this, that Watchmen may arrest Night-walkers, albeit they be not suspicious, and keep them till morning; and if then they find no cause of suspicion, they may let them go. And so it seems, may any other man, Latches. Rep. 137. if they find cause to suspect, bring them to a Justice to put in Surety for it. And for common Night-walking, a man may be Indicted. Part, Idem. Bendloes. 199.

Watchmens power.

SECT. V III.

About the Excise, and Customs of the King.

1. **E**Very Justice, being required, is to assist the Lord Treasurer, or any of the Barons

Barons of the Exchequer, to joyn with the persons commanded by their Warrant in the day-time, to search for, and seize Goods concealed, to deceive the King of his Custom, upon
12 Car. 2.

2. All the Forfeitures, and offences about the Excise given to the King in lieu of his Wardship, &c. in all places but in *London*, may be heard and determined by two of the Justices near the place where the offence and Forfeiture is made and committed, if they do it within 14 dayes after complaint made to them. Otherwise, it is to be done by the Sub-Commissioners of the place for the Excise.

Within, or
without the
Sessions.

3. And if the party be grieved by the Judgment of the Sub-commissioners, he may appeal to the Justices of the Peace, at their next Sessions, who must there determine it. See Stat. of 12 Car. 2. for the taking away of the Court of Wards. But we have not to do with the Acts of Excise of 14 August 1649. and 17 Septemb. 1657.

In the Sessions,

4. The Justices are to be ayding to the Officers and others appointed to mannage the Kings Customs, in the doing of their Offices, and in the execution of the Statutes for that purpose, by 14 Car. 2.

Out of Sessions

About the Inrollment of a Deed.

Any one Justice may joyn with the Clerk of the Peace in the Inrollment of a Deed of Bargain and Sale of Land, acknowledged before them

Out of Sessions

them within 6 monerhs after the Date of the Deed, by 27 H. 8. chap. 6.

SECT. IX.

About Escapes.

In the Sessions **T**HE negligent and wilful Escapes of Mur-therers and Felons, are also to be punished by Justices in their Sessions. 3 H. 7. chap. 1. 1 R. 3. 3.

About Information, and an Informer, upon
18 Eliz. chap. 5.

1. The Informer must begin, and follow his Suit in person, or by his Attorney in Court, and shall have no Deputy, in pain of 10 l. and the Pillory.

2. A Note of the exhibiting his Information shall be taken, and then it shall be accounted to be of Record, and no Proceſs to go forth till then.

3. The Clerk that makes out the Proceſs, must indorse his name, and the Statute upon which the Information is grounded, in pain of 40 s.

4. No Informer may compound with any Defendant before answer, nor then, but by consent of the Court, in pain of 10 l. and the Pillory.

In the Sessions. 5. The Justices in their Session, have power to hear and determine these offences.

6. In-

6. Information for such things, as wherein the Justices have power, shall be before them, and not in the Courts at *Westminster*. 21 Jac. 4. Co. 2. part of his *Instit.* 173, 174, 175.

About Counterfeit Letters.

If any falsly get any money, or other thing, by colour of any false Token, or Counterfeit Letter, under pain of any corporal punishment, (but Death) the Judges before whom he shall be convicted by Witnesses, or by confession, shall think fit.

And Justices of Peace may hear and punish such an offender in their Sessions. But the same power is given to Corporations: therefore they are not to meddle within Corporations, upon 33 H. 8. 1. See *Bulstr.* 1 part, 149, 150.

About Crows.

It is said, that one Justice may cause to be levied of the Goods and Cattels of him that refuseth to pay for the taking of old Crows and Rooks upon his Land that hath 5 l. per Annum Land, in his occupation, after the rate of 2 d. a dozen. But there is no way of conviction of the refuser. And therefore it seems, nothing is to be done for the Justice therein out of Sessions.

About Cottages.

None may erect, or convert a Building to be a Cottage for Habitation, unless he lay 4 Acres

In the Sessions.

of Free-hold-Land of Inheritance so near to it, that they may be conveniently occupied together on pain of 10 l. and 40 s. a moneth for the continuance of it. But Cottages in Cities, Burroughs, or Market-Towns, or built for Labourers in Mines; or Quarries within a Mile of them, or for Seamen within a mile of the Sea, or a Navigable River, or for a Keeper, Warrenner, Shepherd, or Heardsman, or for an impotent person; and Cottages, which by order of Justices of Assize, or of the Peace, in the open Assize, or Sessions, shall be decreed to continue for Habitation for so long time, as it shall be so ordered, are not to be taken to be against this Statute.

No owner, or occupier of such an unlawful Cottage, shall place, or willingly suffer, any more Families then one, to co-habite therein, on pain, to forfeit to the Lord of the Leet 10 s. a moneth, yet a poor person may by consent, be settled as an Inmate for a time, and this will be no offence. Justices in their Sessions, may hear and determine any of these offences, by 31 Eliz. chap. 1. See *Bulstr. part, Co. 51. 52.*

About a Libeller, or slanderer.

In, or out of Sessions.

If any man shall raise, or promote any Libel by word or deed against another (especially, if he be a Magistrate) or charge a man with such a Crime, as for which he may have an Action; he may be Indicted, and fined for this in the Sessions before the Justices thereby way of Indictment. Or perhaps; any Justice may bind him

him to the good Behaviour for it, if the wrong and provocation thereby be great.

SECT. X.

About Mault and Maulsters, upon 2 Ed. 6. 10. 39 Eliz. 16. 1 Jac. 25. 11 Jac. 28. 27 Eliz. 14.

1. **T**HE Justices in their Sessions, at their discretion may restrain the superfluous number of Maulsters, and of the buyers of Barley, to be converted into Mault, by 39 Eliz. 16.

In the Sessions.

2. There must be two Justices to convict an offender upon his own Confession, or the Testimony of two Witnesses of his breach of a Sessions Order, made for the restraint of Maulsters, and to commit to Goal for three dayes, and after, till he enter into a Recognisance of 40 l. to obey the Order, upon 39 Eliz. 16. But any one Justice alone, may take this Recognisance.

Out of the Sessions.

3. None may imploy lesse time to make and dry Mault to be sold out of *June, July, and August*, than three weeks; nor in those Moneths, lesse then 17 dayes, nor put to sale any Mault mingled of good and bad, in pain to forfeit for every Quarter so put to sale 20 s.

4. None may put any Mault to sale, before (by the treading, rubbing, and fanning of it) there be taken out of every Quarter, half a Peck,
in

in pain, to forfeit 20 d. for every Quarter otherwise done, by 2 *Ed.* 6. 10.

In the Sessions. 5. All (but the punishment of the breach of a Sessions Order) that is to be done upon these Statutes, is to be done in the publick Sessions.

Out of Sessions 6. Bailiffs and Constables of Towns, where faulty Malt is made, or mingled as aforesaid, may search for it; and finding it, with the advice of a Justice of Peace, may make sale thereof, at their discretion, by 2 *Ed.* 6. 10.

7. Justices in their Counties, are not to meddle in Corporations, nor may Maulsters meddle with the execution of this Statute.

8. Justices of the Peace have nothing at all to do, upon 17 *R.* 2. 4. 3 *Jac.* 11.

About Mosse-Troopers, upon 4 & 5 M. 3.

14 *Car.* 2.

In the Sessions. The Justices of Peace, in the County of Northumberland, and other Counties, may rate and order those Counties, for the securing thereof against the *Mosse-Troopers*, their Thefts and Robberies, and raise a force to secure their Counties. See 14 *Car.* 2. And the Statutes of 4 and 7 *Jac.* revived.

SECT. XI.

About a Robbery, upon 27 Eliz. 13. and other Statutes.

In the Sessions. **T**Here are many Statutes about this, that have some reference to the Office of the Justice of

of Peace. As 1. That all persons are to be ready upon *Hue and Cry*, and the Sheriffs Summons to pursue, and arrest Felons.

2. And if any Officer within, or without a Franchise, be negligent herein, he is to be punished by Fine and Imprisonment, *Westm. 1. 3 Ed. 1.*

3. That the whole Hundred where Robberies are done, shall be answerable for the Robberies there committed; and if they be done in the division of two Hundreds, both Hundreds together, with their Franchises, shall answer them. Statute of *Winchester*, chap. 1. *13 Ed. 1. chap. 1. 2. 4, 5, 6. Articuli super chartas. 17. 28 Ed. 1. 11. 7 R. 2. 6.* But whatsoever is to be done upon any of these Statutes, is to be done in

the Sessions. This onely is to be done out of Sessions. That where damages are recovered by the party robbed, against one, or some few of the Inhabitants of a Hundred, in a Suit against a Hundred, upon a Robber escaped, and default found in the prosecution of a Felon in the same Hundred, or in another Hundred, where the one half of the money is recoverable by the party robbed, in the name of the Clerk of the Peace of the County, by *13 Ed. 2. 2. and 28 Ed. 3. 11.*

And for one equal distribution in both these Cases, any two Justices *Quorum unus*, living in, or near the place, may set the Rate upon the Towns of the Hundreds. And after the Constables of the Towns and Parishes have distributed and set it, and have levied it by distress and sale of Goods, the which they are by their Offices, without Warrant from any Justice, to do.

And

Out of Sessions

Constables

And this money so levied, they are to deliver to one of the same Justices, who is to see it payd to him, for whose use it was raised.

About Incontinency.

In, or out of
Sessions,

If a man keep a Bawdy-house, or haunt such a House, or be commonly suspected for a lewd man this way; he may be for this indicted before the Justices in Sessions, and if found guilty; he may be fined and imprisoned till he pay it. Or he may be bound to the good Behaviour for this offence. *Stiles. Rep. 323.*

What the Justice hath to do about a Bastard-child; See chap. 18.

That Ordinance of the 10th of May 1650. against Adultery, Fornication, and Incest, we have nothing to do with it.

SECT. XII.

*About Wood, upon 35 H. 8. 17. 13 Eliz. 25.
1 Eliz. 15. 13 Eliz. 25. 23 Eliz. 5. 27 E-
liz. 19.*

BY these Statutes there are Provisions.

1. For Standards of certain Trees to be left where Wood is felled.

2. For the preservation of Woods felled, for 3 time after it is felled.

Out of Sessions 3. Against the Conversion of Wood-ground into Pasture or Tillage. And for many other things

things about Woods. And amongst others, that where a Wood or Coppice is to be felled, wherein others have common, the Lord or owner of the Soil is not to fell it, before he and the Commoners have agreed upon a fourth part thereof to be inclosed to the Lords use. And this if they cannot agree upon, any two Justices appointed by the Sessions, may call 12 of the Commoners and Inhabitants, and the Lord, and with their consent, set forth a fourth part. And this is all that the Justices have to do within, or without the Sessions about this, upon any of these Statutes.

*About the Commissioners of Sewers, by 13
Eliz. 9.*

The Justices of the Peace, two of them being of the *Quorum*, have in some Cases, a power with the Commissioners of Sewers, by 13 Eliz. 9. Out of Sessions

If one refuse to perform the Judgment of the Ordinary, about payment of Tithes, two Justices, *quorum unus*, upon request of the Ecclesiastical Judge, may cause the same person to be attached, and to be committed to prison without Bail, till he enter into Recognisance with a Surety, before some Justice of Peace, to abide the Decree of the Ecclesiastical Judge, by 27 H. 8. 20. Tithes.
Out of Sessions

Along

About Tile-making, upon 17 Ed. 4. chap. 4.

In their privy
Sessions.

In the Sessions.

The Justices may appoint Searchers of Tile, to overlook the making of it, and to present to them the defaults in it, and none may sell it, till it be searched, in pain to forfeit it. The Searcher is to forfeit 10 s. for every default, and he is to have 1 d. for 1000, of the Tile-maker, for his Search, upon this Statute. And the Justices of Peace at their discretion, have power to hear and determine all the offences about Tyle-making, (*viz.*) if they be made of good Earth, and of Earth well prepared, and of due assize in length, breadth, and thickness; and whether the Searchers do their office or not, and they are to assess the Fines limited by the Statute. And this, it seems, may be at a privy Sessions by Indictment; but the safest way is to do it at the general Sessions, 17 Ed. 4. 4.

SECT. XIII.

About Trade and Manufacture.

Yorkshire
for Cloth.

Corporation.
Out of Sessions

1. **I**N Yorkshire, the Justices with others, are to make a Corporation, for the regulating of the Trade of broad Woollen-cloth, within the West-Riding of the County of York; and so from time to time, to mannage the same with the rest of the Corporation, upon 14 Car. 2.

2. The

2. The Justices in their Sessions, may hear and determine the offence of one that shall use the Trade of a Silk-thrower, that hath not been 7. years Apprentice to it, for the 40 s. a moneth forfeited by him thereby, upon 14 Car. 2. So the offence of one, that having served years of that Trade living in *London*, or *Westminster*, or the several Subborbs thereof, or of one of them, or within 20 miles compass of either of them, that are not admitted into the Society or Corporation of Silk-throwers in *London*, or *Westminster*, for the 40 s. a moneth forfeiture for the same offence, upon 14 Car. 2.

Silk-thrower.

In the Sessions;

3. If a Winder or doubler of Silk, shall purloyn, imbezil, pawn, sell, or detain any of the Silk delivered to him by the Silk-thrower to wind, or double, any one Justice of Peace may examine it. And finding it by the Oath of one Witness against the Journeyman or Winder, he may determine it, and order to the party wronged, what recompence he thinks fit. And if the party be not able, or shall not within 14. dayes after, pay it according to the order of the Justice, he shall for the first offence be whipt, or put in the Stocks in the place where he offended, or in some Market-Town of the County near to the place, as the Justice shall think fit. And for the second offence the like, or such other punishment as the Justice in his discretion shall think fit, upon 14 Car. 2.

Silk-thrower;

Out of Sessions

Out of Sessions

About Watermen.

In the Sessions.

At the first Court of Aldermen in *London*, next after the first of *March*; out of the Watermen between *Gravesend* and *Windsor*, there are to be chosen 8 for Overseers, which shall have power to keep Order amongst the rest. And they may commit for some offences; and the Justices of the Counties adjoyning to the River of *Thames*, upon complaint of any two of the Overseers, or of any Watermans Master, may hear and determine any offences committed against 2 and 3 *Phil.* and *M.* chap. 16. and to enlarge a Waterman unjustly committed against that Act, and to punish the Overseers for injustice.

In the Sessions.

The Justices in the Counties of *Gloucester* and *Somerset*, in their Sessions, are to bind their Keepers of Ferries over *Seavern*, in Recognisances with good Sureties, that they shall not transport any Passenger or Cattel out of *England*, into *Wales*, or the Forrest of *Dean*, or from either of these places into *England*, before Sun-rising, or after Sun-setting, unless such as they know and will answer for, by 26 *H.8.* chap. 5.

CHAP. LII.

As to the Justice of Peace's Warrant, these things are to be known,

1. **T**hat where a Statute doth appoint a thing to be done in the nature of a punishment for an offence, it hath been held by some, That upon any complaint to one Justice of this offence done; that this Justice may send for the offender, he may grant his *Warrant*, to bring the offender before him and another Justice, or to find Sureties for his appearance at the next Sessions, to answer the offence at Sessions. Or if he see cause, bind him to the good Behaviour, and to appear at the next Sessions. But it is conceived, that this Warrant and proceeding, is altogether illegal. And that no Justice may do the one or the other, but that the party is to be indicted, and then to be proceeded against by the ordinary process of the Court. And yet in case where some special and extraordinary power is given to a Justice by an Act of Parliament, to bind over, &c. there perhaps it may lawfully be done. *Dalt. Just. p. 29.*

2. That a Justice may not send his Warrant to arrest a man, because he hath broken the peace. But he may send his Warrant to arrest a man, for fear he will break the Peace, to prevent it. *5 H. 7. 6. Broo. Abridg. Faun. Impr. 42.*

3. That the Warrant may be directed to To whom to be any Officer, as the Sheriff, his Bayliffs, Constables,

Gg

bles,

Sect. 1.

bles, Tything-men, or to others that are no Officers, thus, To the Sheriff of the County of G. or to the Bayliff isherant of the County of G. or to the Bayliff of the Hundred of R. or to the Constable of the Hundred of R. in the County of G. or to the Constable of the Town or Village of Dale, or to the Tything man of Dale, as the Officer there is called, if it can be known. Otherwile, the best way is, to direct it to all the Constables and Tything-men of Dale, in the County of G. and every of them. Or it may be directed to all these Officers together, to the Sheriff, and to all Bayliffs, High Constables of Hundreds, and Constables, and Tything-men of Towns and Parishes within the County of G. and every of them, joynly and severally. Or it may be directed to these Officers; and to others that are no Officers together: or to them that are no Officers, alone thus. To J. S. and W. S. both of Dale, in the County of Gl. and to either of them. But this must be understood of Warrants of the Peace, good Behaviour, and such like Warrants, wherein the Justice of Peace is left at liberty to direct his Warrant to whom he will; for if that Law direct to whom, as divers Acts of Parliament do, some appointing him to direct his Warrants to the Constables, some to the Constables and Church-wardens, some to the Church-wardens; some to the Constables, or Church-wardens; some to the Church-wardens and Overseers of the Poor: in these Cases, he must take care to pursue the direction the direction of the Statute punctually; for it is dangerous to vary from it never so little; and therefore the Title set down in the Presidents for

for Warrants, must be followed and not altered. And when the Tide of direction is to more than one, it is good to add (and to every of them) and to say in the Body of the Warrants, *These are to Authorize, and require you, and every of you.* But the best way is, to direct it to the known and common Officer, which is the High Constable of the Hundred, or Constable of the Town, in all Cases where it is left to the Justice of the Peace, to direct it to whom he please.

4. That it is not amiss to say, the place wherein the Officer dwells, to whom the Warrant is directed, is within the County. To the Constable of *Dale*, within the Counry of *Gl.* And so of other places named within the Warrant, to say they are within the County.

5. That it is not safe for a Justice to make a Warrant to take a man for Felony, unless he be indicted for it; but then if it be to the Court of Sessions, it must be by the ordinary process of the Court. And yet if he send such a Warrant to an Officer, and he execute it, the Officer is excused.

14 H.8. 16. Broo. Abridgment, *Faux Impr.* 8.33.

6. That it is not safe for a Justice to send a Warrant upon his own suspicion to arrest a man, but that he is to arrest him himself, as another man is to do. But the Justice may send his Warrant to the Constable of a Town, to see the Peace kept in the apprehending and taking, and bringing of a Felon before him. And then the party that doth know of, or suspect the Felon, and that hath given in the Information to the Justice, is to arrest him. And then it is his Arrest. 14 H.8. 16. Broo. *Faux Impr.* 8.16. See Chap. 1. Sect. 4. Numb. 22.

To apprehend
a Felon.

Sett. 2.

Mittimus must
express the
Cause.

7. That it is not safe for a Justice to send for a man to examine him, except it be in some special Case of Treason, &c. and not set down the cause in the Warrant, as for Felony, the peace, &c. But in all Cases, he is in his *Mittimus* to set down the Cause, for the Constable or other Officer, in a suit against him for the Imprisonment is to set down the cause; and therefore it is safe to express the Cause. And therefore we do not approve the Warrant to attach or apprehend a man for misdemeanors only, or to answer to such matters as shall be objected against him. *Coo. 2. part Just. 591.*

Place of the
offence done.

8. That it is not amiss, if the Warrant recite a Conviction of an offence, to let it express where the offence was done thus, *J. S.* being Convicted before me, that he was drunk at *Dale* in this County. Because in many Cases, the forfeiture is given to the poor of the place where the offence is done.

Sheriff, or
other Officers
power.

9. That it is held, that albeit a Sheriff upon the Kings Writ or an Officer, may demand the Traytor, or Felon in anothers house, and if he deliver him not, break open the house.

Breaking open
a House.

And albeit another man may do so upon a *Hue and Cry*, to apprehend a Felon; yet that it is not safe for one, or more Justices, upon a bare surmise of Felony, to give a Warrant to break any mans house to search for a Felon, or for stolen goods. *Coo. Just. 2. part 177. See Chap. 1. Sett. 4. Numb. 22.*

Time of the
offence done.

10. That it is good also to express the time, when the offence was committed, thus, *J. S.* being duly convicted before me, that he was drunk

drunk at Dale, in this County, the first day of May last, or within 3 months last past, or since the first of May last past; that it may appear, the offence was done since the general Pardon, and in some Cases, this is, if not necessary, yet very convenient, when the offence is by the Law to be punished within a certain time, or not at all, there it is good to say, that the offence was done within that time.

11. That it is good also to express the place of making the Warrant, and must be some place within the County, thus. *Dated at Dale, Given under my Hand and Seal at Dale, in the same County.* But if it say it was dated at one place, and be dated at another, yet the Warrant is good, and shall be taken to be dated where the Warrant expresseth.

The place of making the Warrant.

12. That the Warrant, (being a Warrant of Arrest) may be to require the Officer to bring the offender before the Justice that makes the Warrant, or before him, or some other Justice of the County, and either of these forms is good, but the first is best. *Bulstr. 3. part 77.78.*

Before what Justice to be brought.

13. That in every Warrant for the Peace or good Behaviour, where Sureties are to be found or required, the Warrant ought to contain the special cause or matter, that the party Arrested, may be provided with Sureties. But if it be for some great Crime, the cause may be concealed.

Sect. 3. Cause to be expressed in a Warrant.

14. That in every Warrant to command an Officer to carry a man to Goal, it is not amiss to insert a clause at the end of the Warrant, to command the Goaler to receive him, to this purpose,

About the Warrant of a Justice of Peace.

pose. That you him convey to the common Goal of this County, and him deliver to the Goaler, or his Deputy there, who are hereby required, him to receive and detain in their Custody as a prisoner, till he shall be thence delivered by due course of Law.

15. That albeit a Justice may not send his Warrant to another, to arrest a man upon his own, or upon another mans suspicion of a Felony (as is said before); yet any Justice, upon the Report or notice of a Felony or Treason done, may send out his Warrant to the Sheriff and Constables of all places within the County for *Hue and Cry* after, and to search for the Traytor and Felon. And if thereupon they find in their search, one they have cause to suspect they may thereupon of their own heads, apprehend, and bring him to a Justice to be examined. But it is usual for a Justice of Peace, upon an Information given in to him, by a man that is robbed upon his Oath, and that he doth suspect such a one, to send his Warrant to Officers to apprehend this person, and to bring him to a Justice to be examined.

16. If the Felony be by the taking away of Goods, it seems, that any Justice may send his Warrant to search in suspicious places for the Goods stolen; and if they find the Goods, to secure them, to the end, that the owner may have them. And if the Officer suspect the party in whose hands the Goods are, he may bring him to a Justice to be examined; this Warrant then must be warily made and executed. But the Officer may (no doubt) in this Case,

About the Warrant of a Justice of Peace.

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Case, upon his own suspicion, arrest the party, and bring him to a Justice to be examined.

17. That there is little difference between a Warrant of Commitment, and a *Mittimus*, for both are to do one thing, and differing onely a little in form, it will be easie therefore to make the one by the other.

18. That a Justice therefore must take great care how he doth make a Warrant to arrest, imprison or arrest, or send to Goal, or Bridewell, any man, but in a clear Case; as for Felony, the Peace, or good Behaviour, or the like.

19. That where a Statute gives power to a Justice of Peace, to compell men to do any thing; in order hereunto, he may send his Warrant, to require them to come before him, and in case of their refusal, to proceed in the Law. So to tender the Oath of Supremacy. See Chap. 8. *Sett.* 4. Upon a Statute-Law.

20. That if the Justice of Peace ground his Warrant upon any Statute-Law, he must be the more careful, and be sure he pursue exactly, the direction of the Statute therein. As where the Statute directeth the Warrant to be made to the Constable, or to the Constable and Church-wardens, or to the Church-wardens, and Overseers or to be made under his Hand and Seal; that it be made accordingly.

21. That the Justices of Peace may send their Warrants for any thing that doth relate to a special Sessions, either to compell appearance, or attendance there, for execution of any thing there done, under their own Hands, if they

About the Warrant of a Justice of Peace.

please, or may let it be done by the Clerk of the Peace, as the business of the Quarter-Sessions is done.

22. That if the Justice send his Warrant to arrest and imprison a man, the best way is, to direct it to as many as he may, Constable, Tything-man, &c. or to leave it indefinitely thus. To require you, that J. S. be apprehended and brought before me, and Complaint (or Information being given or made to me, that J. S. &c. These are to Command and Authorize you, that J. S. be brought before me, &c. *Bulstr.* 3. 78, 79.

Sect. 4.

23. That it is a good close of every Warrant sent to an Officer, to require him to give an account how he hath executed it, after this wise. And that you be then here with this precept, to give us an account of your execution of it. Or thus, And that you give me an account within 14 dayes next following, of your execution of my Warrant.

Caution to Justices.

24. That where a Statute gives the Justices power to commit to Prison, Bridewell, or the like, in case of lack of distress, or the like, there the best way for the Justice seems to be to do it in one Warrant thus, That you levie of the Goods of J. S. &c. And in case you can find no distress, or (for lack of distress) that then you carry him to Goal, &c. for 3. dayes, or that you whip him, &c. as the words of the Statute are, rather then to take upon him to know the lack of distress, &c. and thereupon, to send his second Warrant absolutely to do it. But if in such a Case, the Justice shall send his Warrant

to send a person to Goal or Bridewell, and not to distrain, and in case of lack of distress to carry him to Goal, this Warrant seems to be unlawful, and dangerous. And it will be necessary, (or at least convenient) to send one Warrant to the Constable, to carry him to Goal, and another Warrant, or Mittimus also to the Goaler, to receive him, and not to do both by one Warrant.

25. And that for the manner and form of the Justices Warrant in other particulars, it will be the safest way for the Justice to do it in writing, with his Hand to it, and also his Seal; for in some Cases, the Seal is necessary, that the Warrant be perfect when it is sealed, and not with blanks to be filled up afterwards by others, and that it be clear, and not have in it any ambiguous words, as that you cause to come before me, &c. for this leaves it doubtful, whether the Officer is to summon him to come before him, or to bring him prisoner before him, and so in like Cases. And for the penning of it, he may do it either in the Kings name, and begin it thus. *Charles by the Grace of God, &c.* or in his own name alone. As *A. B. Esquire*, one of the Justices, &c. or without this thus. *Complaint being made to me, that, &c. These are to require you, &c. And with, or without a Tasse*; but it is not amiss to say, *Witness my Hand and Seal, &c.* But a day, moneth, and year of the Lord, may not be omitted. It is not necessary to use words (*in the name of the Kings Majesty*) to require, &c. But it may be sufficient, *These are to require you, &c.* And yet the Warrant doth carry the more majesty

majesty in it, for those words (*Greeting*) may be omitted. So these words, the Justices of our Lord the King, Assigned, &c. and it is enough to say, *Justices of Peace of (or within) the County of G.*

Caution to
Justices.

26. That in all this, it concerns the Justice to be very circumspect; for albeit, no Action will lie against the Justices, for any thing they do command in their Court, yet an Action may lie against a Justice, for any thing he doth command out of Sessions, if he do any thing against, or besides the Law. *Co. 10. 77. Godb. Rep. 246. Yet see 9 Ed. 4. 7. Cro. 1. last published, 809.*

Action against
a Justice.

27. That where a Statute is penned thus, that the Constables or Church-wardens, by Warrant from a Justice of Peace, shall be enabled to do an Act in this Case, we conceive the Justice may justify the making of that Warrant.

28. That it is usual to grant Warrants against offenders, upon penall Laws, to bind them over to the Sessions, before they be indicted of the offence, in Cases where there is no special power or direction given by the Statute so to do. But we dare not advise men so to do, being unsatisfied of the lawfulness thereof. But agree it to be clear and safe, that after the offender is indicted of the offence, and the Bill found, or after the offence found by presentment of the Grand Jury, to be bound over to the next Quarter-Sessions to answer it, and also to put in Sureties for his good Behaviour in the mean time, if the offence, for which he is indicted, will warrant it. As if he be indicted for selling Ale, contrary to the Justices Order, or the like. so also

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in Cases where a Law doth give a special Command and power to any Justice of Peace to bind over an offender to the Sessions, as the Statute of 5 Eliz. 4. touching Masters and Apprentices; the Law of 25 Eliz. 10. touching Hawking in eared or codded Corn, 1 Ed. 6. Chap. 1. 25 Eliz. Chap. 10. and some others do. In these Cases, they may bind them over before Indictment. But then it is best, first to send a Warrant of Summons to call in the party offender before the Justice, to answer the matter; and then if he appear, and he see no cause to forbear to bind him over, to do it. And if he do not appear, then he may send for him, and bind him over, and bind him to the good Behaviour also, for his contempt.

Some Presidents of Warrants for Justices of Peace.

To the Constables, or Tything-men of
Dale.

For the Peace.

A. B. One of the Justices of the Peace for the County of Glouc. To the Constable of Dale, within this County. For as much as A. B. of your Town, (or of Sale in this County) hath come before me, and taken his Oath, that C. D. of your Town (or of Sale) hath assaulted and beaten him the said A. B. and threatned him in such sort, that he is afraid he will beat, wound, or kill him, burn his House, or do him some bodily hurt; and thereupon the said A. B. hath prayed severalty of the Peace, to be granted against

'About the Warrant of a Justice of Peace.'

gainst the said C. D. These are therefore in his Majesties name, to require and Command you, that immediately upon sight hereof, you attach the Body of the said C. D. and him bring before me, or some other Justice of Peace of this County, to find sufficient Sureties, as well for his personall Appearance at the next Sessions of the Peace to be holden for this County; as also for the keeping of the Peace towards his said Majesty, and all his liege People, and especially towards the said A. B. And if he shall refuse so to do, that then you him carry to the Common Goal of this County, there to remain till he shall so do. And hereof fail you not at your perill. Given under my Hand and Seal, this first day of May, Anno Dom. 1662.

For the good Behaviour.

Glouc. ff.

A. B. &c. To &c. as in the last.] For as much &c. as it appeareth to me, that C. D. is a person of ill behaviour, (or is not of good fame, nor of honest Conversation, but an evill doer, Rioter, Barrettor, or perturber of the Peace of our Sovereign Lord the King, as we are given to understand by Information of credible sundry persons. These are (as in the last) That you attach the Body of, &c. And that ye have &c. to answer to such matters, as on his Majesties behalf shall be objected against him. And also that you require him to bring with him Sureties for the good abearing, untill the next Sessions.

Upon

Upon a Supplicavit.

Glouc. R.

A. B. &c. To the Sheriff of the same County.
 And to all and singular Constables, Bayliffs of Liberties, and other Ministers, as well within Liberties as without, and to every of them. Know ye, that I have received the Commandement of our Sovereign Lord the King, in these words. Or thus, to recite the effect of it. Know ye, that I have received the Commandement of our Sovereign Lord the King, to compel C. D. of the said County, Teoman, to find sufficient Sureties for his Majesties Peace, by him to be kept towards L. M. of the said Town, Taylor. And therefore I Command you, and every of you, on the behalf of our said Sovereign Lord the King, that immediately upon sight hereof, you cause the said C. D. to come before me, or some other Justice of the Peace of this County, to find sufficient Surety for the Peace to be kept towards our Sovereign Lord the King. And if the said L. M. shall refuse thus to do, That then you him convey, &c. untill he shall do the same. So that he may be before the Justices of our said Sovereign Lord the King, at the next generall Sessions, to be held for the said County, to answer to our said Sovereign Lord the King, for his contempt. And that you certifie your doing in the said Premisses, to the Justices at the said Sessions, bringing with you thither this Precept. Given, &c.

A Superedeas of a Warrant for the Peace.

Glouc.

A. B. &c. To all Constables and Tything-men within the County of Glouc. For as much as C. D. of, &c. hath come before me as S. and hath found sufficient Surety, that is to say, L. M. and N. O. Yeomen, either of which hath undertaken for the said C. D. hath undertaken for himself, under pain of 40 l. that the said C. D. shall well and truly keep the Peace towards our said Sovereign Lord the King, and all his Linge People, especially towards P. Q. of &c. Yeoman, and that he shall personally appear before the Iustices of the Peace of our said Sovereign Lord the King, at the next generall Sessions, to be held for the said County. Therefore on the behalf of our said Sovereign Lord the King, I Command you, and every of you, that ye utterly forbear, and surcease to arrest, take, or imprison, or otherwise by any meanes for the said occasion, to molest the said C. D. And if you have for the said occasion, and none other, taken, or imprisoned him, that then you cause him to be delivered, and set at liberty without further delay. Given, &c.

The Return of it is to be on the back side of the Supplicavit thus. Executio istius brevis patet in quadam Schedula hinc Brevis annexa.

To

Warrants for Justices of Peace:

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To the Constables and Church-wardens
of Dale,

W.H. &c. To the Constables and Church-wardens,
of Dale. It appearing before us, or before me, if but one
That the persons under-named, have commonly sold
Ale without License, whereby they have forfeited
twenty skillings a piece to the use of the poor of your
Parish, according to the Statute in that Case provi-
ded. These are therefore in his Majesties name, to
require and Command you, to demand of the said
parties, the said twenty skillings a piece. And
if any of them shall refuse or neglect to pay the same
to you, That then you levy the same summe, of the
party so neglecting, or refusing, by distress and sale of
his Goods within three dayes, according to the said
Statute. And if no distress can be taken or had,
that then you bring him or them before us, or one of
us, to be dealt withall, according to the same Sta-
tute. Given under our Hands and Seals, &c.

About Ale-
house-keepers.
To levy 20s.
for selling
without Li-
cense.

M. N. of Dale abovesaid.

O. P. of Dale abovesaid.

Q. R. of Dale abovesaid.

To bring the Felon and Winesses before
a Justice.

A. B. &c. To all Constables and Tything-men,
and to the Constables of Dale. Whereas I am in-
formed, that C. D. hath had a Child lately born
alive of her Body, and is suspected to have mur-
dered

About Felony.
Glouc. ff.

dered or made away the said Child, since the birth thereof; (or that C. D. hath had certain Goods feloniously taken from him, if that be the Case.) These are therefore, &c. that you apprehend and bring the said C. D. before me, or some other Justice of Peace of this County, (or if it be the last case) that if you find any person, you shall have cause to suspect of the said Felony) to answer the Premises. And that you do by all means labour to find out the truth of the Premises; and if you shall find any persons that you think may help to discover the truth thereof, that you require them to come before me, or some other Justice of Peace of this County, to give Information on the behalf of his Majesty, touching the Premises, &c. Given, &c.

Examination.

The Form of an Examination may be this, of Witnesses, the Examination of C. D. taken upon Oath before me A. B. one of his Majesties Justices of Peace, in the County of G. the first day, &c. And so set down at large, all the material Circumstances that he shall declare to prove the offence, and the offender guilty of it. Of the party charged. The Examination of C. D. &c. taken before me A. B. &c. (such a day:) the said Examination being duly examined, saith, &c. And so set down every particular answer that the Prisoner shall make to the question that shall be demanded of him. All this being put in writing, the Justice doth make his Mistitious to send the party accused to Goal; if there be cause.

To give Evidence against a Felon.

A. B. Esq; &c. To the &c. These are to re- Glouc. ff.
quire and command you, That you forthwith cause
to come before me, or some, or one other of his Ma-
jesties Justices of the Peace within this County, the
persons hereunder named, to the end, that they and e-
very of them, may make their personal Appearance
at the next General Goal Delivery, or Quarter-
Sessions [if it be there] to be holden for the County,
then and there to testifye their, and every of their
knowledges, concerning certain felonious acts, com-
mitted and done by A. B. now a Prisoner in the
Castle of G. And hereof, &c.

To search for Stolen Goods.

A. B. &c. To the Constable and Tythingmen of Glouc. ff.
Dile, and every of them. Complaint being made to
me, that C. D. hath had certain Goods feloniously
taken from him, and that he hath in his suspicion,
divers lewd and evil disposed persons within your
Parish. These are therefore &c. That you imme-
diately make diligent search in all suspected Houses
and places within your Parish, as you and the said
C. D. shall think fit. And if in the said search,
you find any of the said Goods, that you secure the
same to be disposed according to Law. And if you
find any cause to suspect any person of the said Fe-
lony, that then you do your office therein, to bring the
same persons you shall so suspect before me, or some
other of his Majesties Justices of the Peace, with-
in the same County, to answer the Premises. And
hereof &c.

For a Hue and Cry after Felons.

Glouc. ff.

To all Constables, &c. Whereas Complaint hath been made to me A. B. one of the Justices, &c. by C. D. of &c. Husbandman, that upon Monday last he was robbed of 6. pair of sheets, taken out of his House, and that he hath cause to suspect one E. F. a lewd Rogue (describe his person, age and apparel.) These are in his Majesties name, to require you and every of you, to make search within your several Precincts for the said E. F. and also to make Hue and Cry after him, from Town to Town, and from County to County; and that as well by Horsemen, as by Footemen. And if you shall find him the said E. F. that then you carry him before some one of his Majesties Justices of the Peace, within the County where he shall be taken, by him to be dealt withal, according to Law. Given &c.

To take Vagabonds.

Glouc. ff.

A. B. Armiger iur. Justiciar. Dom. Regis, ad pacem in Com. predict. conservandi, nec non ad divers. feloniam, transgr. et alia malefacta in Com. predict. audiend. et terminand. assign. Constabular. ville de W. in Com. predict. et eorum consilior. Salutem. Ex parte Domini Regis vobis et cuilibet vestrum mando quod Attachiatus seu unus vestrum attachiat, C. D. vagabond. non servien. nec in servitio alieni us retent. (ut dicitur) et effectus deservire faciat J. G. Secundum formam Statuti de serviente editi. Et si hoc facere Recusaverit Tunc cum ad proxim. Gaol. dicti Domini Regis Com. predict. duc.

duc. facias. Ita quod cum habeatis seu unus vestrum
habeat, coram me et sociis meis Justic. ad proxi-
mam Sessionem ipsius diei. Domini Regis ad pacem
in Com. predicta. tenend. una cum mandac. hoc. Dat.
&c.

To fetch a Servant.

Glouc. ff.

A. B. Esquire, &c. To the Constables of &c.
and each of them, and to all other Constables and
Headboroughs in the said County, and every of them,
Greeting. Where by a Statute made in the first year
of the Reign of the late Queen Elizabeth, it is pro-
vided, that if any Servant shall unlawfully depart
from his Master, Mistress, or Dame, from any
one Shire or County, into another, it should be lawful
for any one Justice of Peace of the same County, from
whence any such Servant shall so depart, to send his
Precept or Precepts into the other County, into the
which any such Servant shall so come. And foras-
much as C. D. a Servant to E. F. of &c. Taylor,
is gone from his Master, without any Testimonial,
or his lawful License, into the County of E. These
are therefore in his Majesties name to require you,
that forthwith upon sight hereof, you go with the bea-
rer hereof, and as speedily as you may apprehend the
said C. D. and him bring before me, or some other
Justice of Peace, within the same County of Glouc.
to be ordered according to the Law in that Case pro-
vided. Given &c.

Glouc. ff.

A. B. &c. Whereas I have received Information under the Hands of some of the Justices of the Peace, of the Parts of Kent, that one *C. D.* the retained Servant of *E. A.* of your Town of *Dale*, for time yet to come, is put away from her said Service unduly, and contrary to the Law of this Realm. These are therefore to authorize and require you, to convey her the said *C. D.* to her said Master *E. A.* And if he shall not her receive as his Servant, or make any refusal, or dilatory excuses, that then you cause the said *E. A.* to come presently before me, or some other of my fellow Justices of Peace of this Countrey of *G.* to answer as well such his refusal, &c. as also why he should not pay to our said Sovereign Lord the King, the Sum of 5 l. for such his unlawful putting away of his said Servant, which if he shall refuse to do, that then by vertue hereof, you do him attach and convey to the Goal of the said Countrey, untill he shall willingly perform the same. Given at *Dale*, &c.

For relief of a Servant out of Service.

Glouc. ff.

A. B. &c. To the Constables, &c. Whereas Complaint is made to me by *C. D.* that he being lawfully retained in the Service of *T. H.* of your Town, Husband-man, at *Michaelmas* was twelve moneth, and being put away from his Service at *Michaelmas* last, hath been at the Statute-Sessions, and cannot provide himself of a Service, being destitute of meanes to relieve himself. These

Warrants for Justices of Peace.

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These are therefore in his Majesties name, to require you, that presently upon the receipt hereof, you do receive the said C. D. into your Town, and see him set on work, and provided for, according to the Statute in that Case made and provided. And hereof you are not to fail, &c.

To distrain one for drunkenness.

A. B. Esquire, &c. To the Constables of Dale, (or the Church-wardens of Dale.) Forasmuch as C. D. was on Wednesday last, being the second of this instant month of July, drunk, as appeared by mine own view, by his staggering and reeling to and fro. These are therefore in his Majesties name, to require and command you forthwith, to levy by distress and sale of Goods of the said C. D. the Sum of 5 s. forfeited, by the same offence by the Statute, and render to him the overplus. And if you can find no distress, whereof to levy the same, and that he shall refuse, or neglect, forthwith upon demand, to pay the same, that then you set him in the Stocks, there to remain for six hours, according to the Law. And the same money, if you can receive, to pay over to one of the Overseers of the poor of your Parish, to the use of the poor. And hereof not to fail, &c. Given, &c.

Glouc. ff.

This Warrant is to be directed to the Constables or Church-wardens, by Stat. of 4 Jac. 5. and 1 Jac. 2.

W. S. Esquire, &c. To the Constables of Dale, in the County of G. and every of them; Or it may be directed to the Church-wardens of Dale, in the County of G. Forasmuch as it hath been duly proved before me, that the per-

Glouc. ff.

† Against the
Ale-house-
keeper, for suf-
fering tipling,
and the tipler
for tipling.

Grounded
upon 1 Jac. 9.

Sons here under-named, Inhabitants within your
Parish of D. upon the first day of May last, were
and did continue drinking and tipling in the
house of G.W. an Inn-keeper, or an Ale-house-
keeper within your said Parish, and that the said
G.W. did then suffer it, contrary to the Statutes
in that Case provided: By which the said per-
sons under-named, have forfeit each of them
3 s. 4 d. a piece, and the said Inn-keeper hath
forfeit 10 s. to the use of the poor of your Pa-
rish. You are therefore hereby required to take
notice thereof, and according to the duty of
your place, forthwith to levy of the goods of the
said G.W. to the use of the poor of your Parish,
10 s. by distress, appraisement, and sale thereof,
according to the Statute, rendering to him the
overplus. And likewise to levy by distress and
sale of the goods of every of the said persons un-
der-named, 3 s. 4 d. a piece, in case the same
persons shall refuse or neglect to pay the same
3 s. 4 d. to the Church-wardens of the Parish
within one week after the demand thereof, ren-
ding back the overplus. And in case the said
last offenders, or any of them, be unable to pay
the same forfeiture, that then you put the same
persons so unable in the Stocks, there to remain
the space of 4. hours. And you are further to
give notice to the said G.W. that he is by this
offence disabled to keep any common Ale-
house, by the space of 3. years next following.
And hereof, &c. A.B. C.D. E.F.G.H.

This

This offence of tipling, must be punished within six moneths, and therefore the Warrant shall do well to express the offence to have been done within six moneths.

W. S. &c. To *Gr.* (as in the last.) It being Glouc. ff.

daily proved before me, that *J. S.* of &c. an Inn-keeper, or Visctaller, or Ale-house-keeper, or Tave-ner, or one that doth sell Wine in his house, did upon the first day of *May* last, in his house there, being an Ale-house, or Inn, or Tavern, (as the case is,) permit and suffer divers unknown persons to be and remain tipling, contrary to the Act of Parliament in that case provided, by which he hath forfeited 10 s. &c. (as in the last.) And hereof, &c.

Another.

Either of them will serve.

Grounded upon 1 Car. 4. & 1 Jac. 9.

W. S. &c. To the Constables of *D.* in the County of *G.* and every of them, (or it may be to the Church-wardens.) Whereas *J. S.* an Ale-house-keeper, or any Inn-keeper of your Parish of *Dale*, hath been lawfully convicted before me, for selling Ale and Beer by unlawful measures, and less than a quart of the best for a penny, within 3. moneths now last past, at *D.* aforesaid, contrary to the Statute in that case provided, whereby he hath forfeit 20 s. to the use of the poor of your Parish. You are therefore hereby required to take notice thereof, and according to the duty of your place, forthwith to levy of the goods of the said *J. S.* by distress, apprise-ment and sale thereof, according to the Statute in that case provided, to the use of your poor, the same Sum of 20 s. And you are thereby re-

Glouc. ff.

For not keeping of the Assize.

Grounded upon 1 Jac. 4.

required to give notice to the said T. S. that he is disabled for 3. years next coming, to keep any such common Ale-house again.

To renew their Recognizances.

Glouc. ff.

A. B. and C. D. Justices &c. To the High Constables of the Hundred of W. These are in his Majesties name, to require you to send your Precepts to every petit Constable within your Hundred, requiring them by vertue hereof, to warn all Ale-house-keepers, and Victuallers within your said Hundred, and such as have sold Ale with, or without License, within a year last past, to be and appear before us at L. in this County, at the Sign of the Red Lyon there, upon *Thursday* the tenth day of *May* next, by eight of the Clock in the morning, and then shuter to bring with them their Licenses: and further, that every of them do then bring with them a Certifi- of their fitness & honest behaviour, in keeping of their Ale-houses and Victualling-houses, under the hands of 4. at the least of the most substantial, honest, and discreet Inhabitants of the Parishes where they so keep or dwell, that we may take such course therein, as Law and Justice shall require. And hereof, &c.

To discharge Ale-house-keepers.

Or thus, To the High Constable of, &c. These are &c. to require you, that you make out your Precepts to all the petit Constables within your Hundred, requiring them by vertue hereof, they discharge

discharge all such as shall keep a Tipling-house, or shall commonly sell Ale or Beer within their limits, other then such as are lawfully Licensed thereunto, whose names are hereunder written, and do forbid them in our names, that they from henceforth keep any common tiplinghouse, or use commonly to sell Ale or Beer, contrary to the tures in that case provided. And if you shall know of any offending, or doing contrary to the said Statutes, That then you warn the said persons to come before me, and others of his Majesties Justices at *Dale*, in this County, upon *Monday* the 5th &c. that they may be dealt with according to Law. And hereof, &c.

A Warrant for levying of 20 s. a piece, of certain Unlicensed Ale-house-keepers, and further to proceed according to Law.

Shff. ff. **F**Orasmuch as the Parties hereunder named of your Town, do stand lawfully convicted before us, for *Ale-house-keepers* without License, and have thereby forfeited the Sum of 20 s. a piece, to the use of the poor of your said Town, according to the Statute, in that Case made, and provided; These are therefore in his Majesties name, to Will, and Require you, that you demand of the said Parties, and every of them, the said Sum of 20 s. a piece, and if they, or any of them, shall refuse, or neglect payment thereof; That then you levy the said Sum, or Sums, of the Party, or Parties, so refusing, or neglecting, by Distress, and Sale of the offenders Goods, according to the

the Statute, in that Case made, and provided : And, if no Distress can be taken, or had, that then you bring all such persons before us, or one of us, to be dealt withall, as to Law and Justice appertained. And also, that you give warning to all such Brewers, within your said Town, as serve such Unlicensed Alehouses with Beer, that they surcease, and leave off selling any more unto them, upon pain of being Indicted, and proceeded against according to Law. And hereof fail you not. *Given under our Hands and Seals, this 2d day of September, in the 14th Year of the Reign of our Sovereign Lord King Charles the Second, &c. Anno Dom. 1660.*

To the Constables of Dale.

Glouc. ff.

For selling Ale without License the second time.

Grounded upon 3 Car. 1.

W. S. &c. Whereas *J. S.* of your Parish of Dale, hath been duly convicted before me the second time, for selling Ale and Beer without License, and for keeping a common Ale-house, and Tipling-house; for which second offence, he is to be committed to the Bridewell for one moneth, according to the Laws provided in that case. These are therefore to require you, forthwith to apprehend the said *J. S.* and him to carry to the Bridewell within the Castle of Glouc. to the Governour thereof, who is hereby commanded to receive him, and there to keep him, by the space of one moneth; and to deal with him as an idle, lewd, and disorderly person. And this shall be your Warrant. Dated, &c.

W. S.

W. S. &c. To *J. S.* and *W. S.* of *Dale*, in the County of *G.* Whereas *W. S.* of your Parish, Ale-house-keeper, was duly convicted before me, for selling less then one full quart of his Ale for one penny, and of the small, less then two quarts for one penny; and I did thereupon send my Warrant to the Constable of your Parish, *J. S.* being then the Constable there, to give him notice thereof, and to call upon him to do his duty in the levying the Sum of 20 s. forfeited by him for his said offence, by way of distress to be taken of the Goods of the said *W. S.* and that the same being detained six days, and no satisfaction made to him, that then he did presently apprise, and sell the same Goods, and render the overplus, according to the power to him given by the Acts of Parliament in that case provided. But the said *J. S.* hath not levied the same money, as is said, nor hath certified to me any lack of distress, albeit my said Warrant was sent to him more then 20 days since; by which the said Constable hath forfeited 40 s. to the use of the poor of your Parish. These are therefore to require you the said *J. S.* and *W. S.* forthwith to levy the same 40 s. of the goods of the said *J. S.* the then Constable, in this wise, *viz.* to take and detain his Goods by way of Distress for 6. days, within which time, if he pay you not, that then you presently apprise and sell the same, rendering to him the overplus. And if no distress can be had, that then you carry the said *J. S.* to the common Gaol of the County, there to remain untill he shall pay the same. And hereof, &c.

Glouc. ff.

To commit an
Ale-house-
keeper for sell-
ing without
License.
Upon 5 and
6 Ed. 6. 25.

W.S. and K.S. &c. To the Constables of *D.* in the County of *G.* and every of them. Whereas *J. S.* of *D.* in the said County, hath of his own Authority, taken upon him to keep a common Ale-house in *D.* aforesaid, and will continue so to do, contrary to the Statute in that case provided, albeit he hath been duly charged and forbidden so to do by the Justices of the Peace of the County. We therefore do hereby command you, that you do him apprehend, and convey him to the common Gaol of this County, and him deliver to the Keeper there, who is hereby charged to receive him at your the said Constables hands, and him safely to keep for three days, and afterwards till he become bound with good Sureties, before some Justices of the Peace of this County, that he shall not keep a common Ale-house or Tipling-house any more, according to the Statute in that case provided. And heretof, &c.

The

For not coming to Church.

W. S. &c. To the Constables of Dale, and either of them. Forasmuch as it is proved before me upon Oath, that C. D. of your Town, Gent. did not yesterday (being Sunday) in the fore-noon, repair to any Church, Chappel, or other usual place for Common-Prayer, contrary to the form of the Statute in that case made and provided. These are therefore in His Majesties name, to require the said C. D. to come forthwith before me, and shew some reasonable excuse for his neglect therein, and also provide to make due proof thereof, or else to pay 12.d. to the use of the poor of your said Parish. And that you make return of this Warrant, and certifie your doings herein. Given, &c.

Glouc. ff.

To make Overseers of the Poor.

A. B. &c. These are to authorize and require you, to send your Warrants to all petty Constables and Tything-men of your Hundred, to give notice to all the Church-wardens and Officers for the poor of their severall Parishes respectively, that they, or some of them, be at the house of &c. (day and place) with a true and perfect account in writing, of all the sums of money by them received, or Rated, and seised, and not received; as also of such stock as is in their hands, or in the hands of any setters of the poor to work, and of all other things concerning their Office. And the same first examined and allowed by some of the

About the Warrant of a Justice of Peace.

the most substantial persons of their Parishes, under their hands. And also that they do then and there give us in writing, the Names and Sur-names of 3. or 4. of the most substantial Inhabitants in their several Parishes, that we may chuse some of them to be Overseers of the Poor, for each several Parish for the next year. And heretof, &c.

The Justices appointment of Overseers of the Poor.

Vicesimo Maii, 1660.

MEmorandum, that we, the Justices of Peace, in, and near the Parish of N. in the Countrey of S. according to the Authority of the Statute, in the 43. year of Elizabeth, (*Caput secundum*) for relief of the Poor, do appoint unto the Church-wardens, R. C. J. G. P. L. and T. C. to be Overseers of the poor of the said Parish, for the year to come; who are, by the said Statute, to raise weekly, or otherwise, by Taxations of every Inhabitant, and every occupier of the Land, within the said Parish, by the consent of two, or more such Justices of Peace, in such competent Sum and Sums, as they shall think fit, a convenient Stock of Wares and Stuff, to set the poor on work; and also competent Sums of Money, for, and towards the necessary relief of the lame, old, impotent, and such other among them, being poor, and not able to work, and see the putting out of Children to be Apprentices, and

and to do, and execute all such other things, as by the said Act they be Authorized. These are hereby further to charge, and command the Church-wardens, and Overseers of the Poor, for this year past, within 4. days after the publication hereof, to make, and yield up unto us a true and perfect accompt of all Sums of money, by them received, and also of such Stock as shall be in their hands, or in the hand of any of the poor to work, and of all other things concerning their said Office, and such Sum or Sums of money, as shall be in their hands, to pay, and deliver to such of the Church-wardens, and Overseers newly nominated, and appointed, upon pain of 20s. to him, or them that shall fail therein. Given the day and year, above-written, and in the 12th Year of the Reign of, &c.

To Confirm the Rate.

Subscribe the Rate thus.

GloUCE. ss. **S**EEN ratified and allowed by us, whose names are here under-written, two of the Justices of the Peace, within the parts and County aforesaid. And we do hereby authorize the present Church-wardens and Overseers of the poor within the Parish of Dale, and every of them, to levy by way of Distress and Sale of the Goods of all such persons as shall refuse or neglect to pay their said Rates upon them imposed, rendering to the owners the overplus, according to the Law provided in this Case. Given, &c. But it will be safe, after demand of the money, that the Overseers have another

another Warrant, such as the next Warrant that followeth.

To distrain for the money.

A.B. and *C.D.* Esquires, two of the Justices, &c. To the Church-wardens and Overseers of the poor of the Parish of *Dale*. Forasmuch as the persons under-named within your Parish (as we are informed) being duly assessed by you the said Church-wardens and Overseers, to a weekly Contribution, for, and towards the necessary relief of the poor, and towards a convenient Stock of necessary Wares, and Stuff to set the poor on work, according to the Statute in that Case provided, have refused, or do neglect to contribute as they have been assessed, and to pay their Rate upon demand. These are therefore to authorize you the said Church-wardens, and Overseers, or any of you, after a demand, to levy all such Sums of money as shall be unsatisfied, and unpaid by any of the said persons so rated, and denying or neglecting to pay their Rate as aforesaid, by Distress and Sale of their Goods, rendering to the parties distrained, the overplus, according to the Laws in this case provided. And if you can find no goods to distrain, that you return their names to us, that we may proceed therein, as cause requireth. And hereof, &c.

A WARRANT

*A Warrant for such, as refuse to take
Apprentices.*

To the Constables of Bourn, their Deputies, or
either of them.

THese are to will, and require you, and, in his
Majesties Name, straitly to charge, and com-
mand you, that presently, upon the Receipt hereof,
you bring before the next Justice of Peace unto your
Town, the Bodies of these Persons here-under named,
to give account for their refusing such Apprentices,
as were appointed unto them heretofore by His Ma-
jesties Justices, or else to stand to such Order, as
shall be agreeable to Law, and his Majesties plea-
sure declared therein. Herein fail you not as you
will answer to the contrary. Given under our
Hands this present day, being the second of May,
1662.

We have not given any President for com-
pulsion of the Overseers of the Poor to Ac-
count, or for levying of the 20 s. for their neg-
lect in their Office; or for the commitment of
such to prison, as pay not their Rates, because
we doubt of the legality of them, and think it
not safe for Justices to make such Warrants
without very good advise.

To send a Bastard-child to the place of its
Byrth.

Glouc. ff.

A. B. &c. To all Constables, Tying-men, and
such like Officers of the Parishes of L. M. N. O.
whom it may concern. Whereas W. T. the Ba-
stard-child of S. T. of the age of 4. years, or
thereabouts, hath been found wandring, and be-
ing up & down in the Parish of St. M. and other
places thereabouts and was (as we are credibly
informed) born in the Parish of Dale, as ap-
peareth by the Church-Book of the said Parish.
These are &c. To require you, that according to
the general usage, custom, and common accep-
tance of the Law in this point, of a lost Child,
that you do convey the same Child to the said
Parish of Dale. And that you the Church-war-
dens and Overseers for the poor of that Parish,
do take care, that the said Child be there provi-
ded for, according as you will answer the con-
trary, &c.

About the reputed Father of a Bastard-child.

Glouc. ff.

A. B. &c. To the Constable of Dale. Where-
as complaint hath been made to me by C. D. of
your Town, single-woman, that she is gotten
with child by one T. D. also of your Town.
These are therefore to require you in His Ma-
jesties Name, that presently upon sight hereof,
you attach the Body of the said T. D. and there-
upon to bring him before me, or some other of
his Majesties Justices of Peace for the said parts
and

and County, to find sufficient Sureties, as well for his appearance at the next general Quarter-Sessions of the Peace, to be holden at *B.* for this County, to the end, he may be forth-coming, when as order shall be taken for the relief and discharge of the said Town of *Dale*, and for the keeping of the said Child, when it shall happen to be born, according to the Statute in that Case provided; as also for his good Behaviour towards his Majesty, and all his liege people in the mean time, &c.

The Record of a forcible Entry.

Middlesex. **R** *B.* Esquire, one of the Justices of the Peace of our Sovereign Lord, the Kings Majesty, within His said County of *Middlesex*, To the Keeper of his Majesties Goal at Newgate, and to his Depury and Deputies there, and to every of them, Greeting. Whereas upon complaint made unto me, this present day, by *A.B.* of *B.* in the said County, Yeoman, I went immediately to the Dwelling-house of the said *A.B.* in *B.* aforesaid, and there found *C.D.* *E.F.* and *G.H.* of *B.* aforesaid, Labourers, forceably, and with strong hand, and armed power, holding the said House, against the Peace of our said Sovereign Lord, the King, and against the Statute of Parliament, thereof made, in the 15th year of the Raigh of King *Richard* the 2d. Therefore I send you, by the bringers hereof, the Bodies of the said *C.D.E.F.* and *G.H.* convicted of the said Forcible Holding, by mine own View, Testimony, and Re-

For such as were said detaining by force.

About the Warrant of a Justice of Peace.

cord, Commanding you in His Majesties name, to receive them into your said Goal, and there safely to keep them, untill such time as they shall make their Fines to our said Sovereign Lord, the King, for their said Trespases, and shall be thence delivered, by the order of the Law of this Land. Hereof fail you not, upon the peril, that may follow hereof. Given at B. the day, and year above-said.

The Precept to the Sheriff, in the nature of a Venire facias.

Note, These are always made by the Clerk of the Peace, and no Justice sitteth alone about this Cause, except the Custos Rotulorum.

R. *B. Armiger, unus Justiciariorum Domini Regis, ad pacem in Comitatu Middlesexie conservandam assignatorum, Vice-comiti ejusdem Com. Salutem. Ex parte dicti Domini Regis, tibi mando, et precipio, quod Venire facias coram me apud B. in Com. predicto, vigesimo die Septembris proximo futuro, viginti quatuor probos, sufficientes, et legales homines de vicineto de B. predicto, quorum quilibet habet quadraginta solidos Terrarum, et Tenementorum, vel reddituum per annum, ad minus, ultra reprimas, ad inquirendum super Sacramentum suum pro dicto Domino Rege de quodam ingressu manu forti facto in Messuagium cujusdam A. B. apud B. predictam, contra formam Statuti in Parlamento Domini Henrici nuper Regis*

gis Anglia Sexti, Anno Regni sui octavo, tento, editi, et provisi. Et videas, quod super quolibet Juratorum predictorum in hac parte impandendorum viginti solidi de exitibus, ad prefatum diem return. Et hoc nullatenus omittas sub pena 20 l. quam noveris te incursum si in executione premissorum tepidus, aut remissus fueris; et habeas ibi tunc hoc Preceptum. Teste me, prefato R. B. vicesimo quinto die Martii, Anno Regni Domini nostri Jacobi, Dei Gratia, Angliæ Franciæ, et Hiberniæ Secundo, et Scotiæ tricesimo septimo.

The Warrant to the Sheriff, for the making of restitution; if the Justice himself will not make it.

Note, This is always done by the Clerk of the Peace, in the Kings Name.

R. B. Armiger, unus Justiciariorum Domini Regis, &c. assignatorum, Vice-comiti ejusdem Com. Salutem. Cum per quandam Inquisitionem pridie coram me captam apud B. in Com. predicto, vigesimo nono die Januarii, &c. super Sacramenta A. B. C. D. E. F. &c. ac per formam Statuti de Ingressibus manu forti factis in tali casu provisi, Comperitum fuit, quod A. B. &c. et alii, &c. primo die Februarii, &c. in quoddam Messuagium, &c. C. D. &c. in B. predicta, vi, et armis, ingressi sunt, ac ipsum C. D. inde tunc manu forti disseisiverunt, et expulerunt, et predictum C. D. sic expulsus, a predicto Messuagio, &c. a predicto primo die Februarii, usque ad diem

Kk 3

captionis

captionis Inquisitionis predicta, manu forti, et cum potentia, extra-tenus unt, prout per Inquisitionem predictam plenius liquet de Recordo: Ideo, ex parte dicti Domini Regis, tibi mando, et precipio, quod (ad hoc debite requisitus) una cum Posse Comitatus (si necesse fuerit) accedas ad Messuagium, et cetera promissa, ac eadem cum pertinentibus, restituere facias, et prefatum C.D. ad, et in plenam possessionem suam inde, prout ipse (ante ingressum predictum) fuerat seisitus, restituere, et mitti facias iuxta formam dicti Statuti. Et hoc nullatenus omittas, periculo incumbente. Teste me, prefato R.B. &c.

Proclamation for Silence, upon the reading of
his Majesties Writ upon the Statute of
Northampton.

THE Kings Majesties Justice of the Peace, straightly chargeth, and in his Majesties Name, Commandeth all, and every Person, to keep silence, whilest His Majesties Writ, upon the Statute, made at Northampton, in the second year of King Edward the Third, his Noble Progenitor, delivered to the said Justice be read, and Proclamation hereof be made accordingly, &c.

The Proclamation of the Statute of Northampton
(2. and 3.) against wearing Armour.

Then may be read the Writ, or declare the effect
hereof in English.

HIS Majesties said Justice, doth in His
Highness Name, and by vertue of his said
Writ, straitly charge, and Command, that no
manner of Person, of what Estate, Degree, or
Condition soever, now being within the House
of B.&c. (named in the said Writ) shall go armed,
or keep force of Armour, or Weapon, nor do
any thing the-e, or elsewhere, in disturbance of
his Majesties Peace, or in offence of the said
Statute, upon the pain of losing his said Ar-
mour, and Weapon, and of imprisoning his Bo-
dy at His Majesties pleasure.

The Return of the Writ.

God save the King.

UPon the Writ it self may be endorsed; *Ex-
cuso istius Brevis patet in quadam Scheda
eidem Brevi annexa. Ego R. B. Armiger, unus
Custodum Pacis Domini Regis in Comitatu Middl.
certifico in Cancellaria dicti Domini Regis, Quod,
virtute istius Brevis mihi primo deliberati, decimo die
Aprilis, Anno &c. publice proclamari, ex parte dicti
Domini Regis, feci apud B. cujus in dicto Brevi
fit mentio, prout in dicto Brevi precipitur; Et quod*

Kk 4

quidam

quidam A.C.D.E. &c. Labourers, post prædictam Proclamationem, ibidem sic factam, armati ierunt, & armatam potentiam ibidem duxerunt; Scilicet duas Galeas, unum Arcum, et decem Sagittas, duos Gladios, et totidem Pugiones, in perturbationem pacis dicti Domini Regis, ac terrorem populi sui, nec non in contemptum Statuti in dicto Breui specificati manifestum; Ac proinde dictos A.C.D.E. una cum Armaturis suis prædictis, arrestavi, ac sequevi, et eorum corpora ad proximam Prisonam dicti Domini Regis in Comitatu prædicto feci, ibidem incarcerationi, donec aliud a dicto Domino Rege pro ipsorum deliberatione habuero in mandatis. Armaturas etiam eorum prædictas appreciari feci per F.G.H.I.K.L. de B. prædicta, Yeoman, ad hoc Juratos; qui dicunt super Sacramentum suum prædictum, quod prædictæ due Galeæ valent 10 s. et quod dictus Arcus 20 d. et quod Sagitte valent 6 s. et quod Gladii prædicti valent 20 s. et quod dicti Pugiones valent 5 s. et sic quod Armatura prædicta valent in toto, 42 s. 10 d. De quibus paratus sum respondere, secundum tenorem dicti Brevis. In cuius rei testimonium huic præsentis Certificationi mee Sigillum meum apposui. Datam apud B. prædictam, die, et anno, supra dictis.

A Precepte

A Precept to the Sheriff, for enquiry upon a Riot.

R. B. W. G. Armigeri, duo Justiciarium,
 &c. assignatorum, Vice-Comiti ejusdem
 Com. Salutem. Ex parte dicti Domini Regia tibi
 precipimus, quod venire facias coram nobis, apud I.
 in Com. predicto vigesimo secundo die Maii, prox.
 futuro, viginti quatuor probos, sufficientes, et lega-
 les homines de Com. predicto, quorum quilibet ha-
 beat Terras, et Tenementa infra dictum Com. li-
 bere tenia per Chartam, ad annum valorem 20 s.
 aut per Copiam Rotulorum Curie, ad annum va-
 lorem 26. solidorum et 8. denariorum, aut per
 utrumque, ultra omnes reprisas; Ad inquirendum
 pro dicto Domino Rege, ac pro indemnitate nostra
 in hac parte, super Sacramentum suum, de qui-
 busdam illicitis aggregationibus, et Riottis apud C.
 in Com. predicto nuper commissis, ut dicunt. Et
 hoc nullatenus omittas sub poena 20 l. quam incur-
 surus es, si in executione premissorum defeceris.
 Et habeas ibi tunc nomina Juratorum predictorum,
 et hoc Preceptum. Datum sub Sigillis vestris,
 &c.

A Precept

A Precept, or Warrant, to bring certain Riotous Persons before a Justice of Peace.

Middl. **F**Orasmuch as I am credibly informed by *M. S.* Esquire, that *J. C.* &c. and divers, and sundry other Persons unknown, have come upon the ground of the said *M. S.* in *M.* aforesaid, and there have been aiding, and assisting to these Persons above-named, in forcible manner to carry away the Wood, and Timber, there of late growing, being the Wood, and Timber of *M. S.* These are therefore, in the Kings Name, to Command you, and every of you, to Arrest as well the said Parties before named, as the said Persons unknown, being shewed unto you by the said *M. S.* and to bring the same before me, and this shall be your Warrant, and Discharge.

Orders and Rules to be observed in the time of the Plague.

A Warrant to the Church-wardens, and Overseers of the Poor of C. and to every of them, &c.

FOrasmuch as the Sickness of the Plague, doth so exceedingly encrease within the City of *L.* Borough of *S.* and the Parishes adjoyning, as it hath occasioned the Kings Majesty, to defer the publick Heroick Solemnizing of His Coronation, to avoid Concourse of People, which might encrease the Infection through all parts

parts of the Realm, and purposeth to be Crowned at *Westminster*, very shortly, without any great shew; and yet must repair hither, whereupon His Highness hath specially directed, that we shall, as well by good Orders, endeavour, as much, as in us lieth, to cease the Infection in such places, where it already is, as also to prevent the same in the Parishes near *L.* whereas it is in performance of our Duty herein; We do, in His Highness's Name, Command, and Charge you, the Officers, to give Example of good Order, and to give warning to the Inhabitants, to observe the Order, hereunder prescribed, during the time of this Infection.

1. That from henceforth your self, nor any of them, do receive into your Houses, or harbour any Citizen of *L.* or other person, their Children or Servants, that come from Houses Infected.

2. That no Person whatsoever shall, from henceforth, receive any Napery, or other Linnen, out of *L.* or the Suburbs in other Parishes, that are infected, and the same to wash, and dry within this Parish, and if those that are Washers, be so poor, as without that help, they cannot relieve their Family, to give notice, that Order may be taken for their succour; during this time of restraint.

3. That no Ale-house-keeper do suffer to drink, or abide in his House on the Sabbath, or other days, any, that shall come from *L.* or the Suburbs, during the time of this Infection.

4. That

4. That Ale-house-keepers shall not make any publick Dinners within their Houses, to occasion concourse of people, either upon Marriages, or other meetings.

5. That two honest antient Women, of good carriage, inhabiting within the Parish, be appointed for Searchers, and presented unto some of us to be sworn, that, if any Sicknes should happen within the Parish, which God prevent, shall search, and view the Bodies of such dying, to discover the quality of the Disease, and thereof to make Certificate.

6. That if any, being poor people, happen to dye of the Plague, within this Parish, then to cause their Houses to be shut up, and the Church-wardens, and Overseers of the Poor, to see them relieved, and, if they have not in their hands sufficient, to give notices unto us, that we presently take Order for their relief.

And, for that Annoyances are chief occasions of infection, you shall command all dung-hills, lay-stalls, and other noysom Annoyances, being in the Villages, or near the High-ways, within the Parish, presently to be removed.

And, if we shall finde your selves negligent, or remiss in your office, or offenders, touching these Orders, you shall be certified to the Lords of His Honourable Council, to be punished, as the quality of the offence requires.

And

And, if any other person offend you, you shall presently present his, or their names to us, that such punishment may be inflicted, as is fit. And thereof fail you not. Given under our Hands, and Seals, this 5th of July, *Anno Regis, &c. primo, annoque Domini 1625.*

Further Directions against the Plague.

To the Church-wardens, and Overseers of the Poor, of the Parish of &c.

W Hereas we gave long since special Orders unto you, for the avoiding of the increase of the *Contagion*, and considering, it hath pleased God now, of his goodness, to assuage the Sickness in great measure amongst us, we are let to understand by letters, from the Lords of His Majesties *Privy Council*, that there hath been a slackness, and no due regard in the performing your duties on your parts; and therefore we are required again by them to do our best endeavours for the executing of such former directions. These are therefore, in the Kings Majesties name, strictly to will, and require your careful, and speedy endeavours in the observation, and keeping all those orders, and directions (concerning the stay of the *Contagion*) whereof we have formerly prescribed unto you; both for the preserving them, that be already infected, and preventing from others, that are

now

now whole. And, if any person shall be obdurate, and hinder the proceedings of the said directions, that you cause them to be brought before one of us, to receive such condign punishment, as the quality of the offence shall require, or deserve. Whereof fail you not, as you will answer the contrary at your perils. Given at, &c.

CHAP.

CHAP. LIII.

Anno 15. Car. 2. Regis.

An Act of the present Parliament, for the repair of the High-ways, within the Counties of Hertford, Cambridge, and Huntingdon.

To continue for 11. years.

FOR amending of the ancient High-way, and Post-Road leading from London (for many miles in the County of Hertford, Cambridge, and Huntingdon) to York, and so into Scotland; and likewise from London into Lincolnshire; and from the City of Norwich, St. Edmunds-Bury, and the Town of Cambridge, to London, it is provided as followeth: First, for what the Justices of Peace are to do.

1. That for the year, 1633. and untill the Quarter-Sessions then next following, 4 Justices of the Peace, or any 2 of those 4 Justices, of each of the said Counties respectively, that dwell next to the same High-ways, shall name and appoint 9. able and sufficient persons, of each of the said Counties respectively, to be Surveyors thereof, for the surveying, ordering, repair, and keeping in repair thereof for this year. And if they neglect or refuse the Office, let any Fine under 10 l. in their Quarter-Sessions upon the Refuser, and levy the same by distress and sale of

What the Justices of Peace have to do herein, in or out of Sessions, To appoint Surveyors. When, and where this is to be done.

of goods: But this cannot be (as it seems) without Conviction, which must be in the ordinary way. And in this Case, where any one so chosen shall dye, or shall be discharged of his Office, there two or more Justices of the County, near to the place, may appoint some other fit person in his place, and give him notice thereof, under their Hands and Seals; and if he refuse or neglect it to be under the same penalties, as the Refusers of them that were first elected.

2 That from the Sessions next after 1663, this be done yearly by the Justices at their Sessions, to be held next after *Easter*, for the year from thence next ensuing.

To give notice to the Surveyors chosen in writing.

To approve of the choice of the Collector at Toll.

3. The said Justices of each County respectively, are to give notice thereof in Writing to the persons chosen, of their choice.

4. Any two of them living near to the places named, where the High-ways go, are to approve of the choice of the Collector and Receiver of Toll made by the Surveyors. And these two Justices may remove the old, and choose new Receivers as they see cause.

To end differences between the Surveyors and others, about hire for their Work, and digging.

5. If any difference be between the Surveyors and Labourers for themselves, or their Teams &c. about their Hire, for their own, or Plows work, any two of the Justices are to decide it, and set down what Allowance shall be given for the Team, Cart, &c. and for the Labourer. And if any difference be between the Surveyors, and any man, about recompence for digging in his ground for Gravel, &c. or about filling the Pits, this is by the Justices to be decided at a *Quarter-Sessions*.

6. They

6. They are at their Easter Quarter-Sessions yearly to take an Account of the Surveyors of the money by them received and laid out. And then they are to make such Allowance to the Surveyors, for their pains in their Offices, as the Justices shall think fit. And if they refuse so to account and pay in their money, they may be by the Justices at their Quarter-Sessions, (and that as it seems by 2 credible Witnesses upon Oath, without Verdict) be convicted of the Offence, and sent to Prison, to the Common-Goal, there to be till they do account.

To take the Account of Surveyors, and to punish their refusal to account.

7. Where want of money is to repair the High-ways, there the Justices of each County in their Quarter-Sessions, may make a Rate upon the Parishes and places, that lye in or near the Road, and for repair onely of their own County-ways, to raise such money as the Justices shall think fit for the doing thereof, to be paid to the Surveyors or their Treasurers.

To set a Rate on the County.

8. If at the end of the 11. years, upon the Account of any Receiver of Toll, any money be found in his hand, and he pay it not into the Justices at their next Quarter-Sessions, as he is to do, he forfeits double so much. And any two Justices of that County, may by Warrant under their Hands and Seals, cause the same to be levied by distress and sale of the parties goods, rendering to him the over-plus. And this money (if any such be) the Justices at their Quarter-Sessions may order to be kept and employed as a Stock, towards the repair of the same High-ways.

1.

9. If

9. If the Justices of Peace for the County of *Huntington*, or any four of them, dwelling next the High-road, shall judge another place more convenient then *Stilton* for Receipt of the Toll of that County: That they may appoint such other place in stead of *Tilton* for it.

10. If the Justices at their Quarter Sessions, at any time during the 11 years, shall adjudge the High-ways of their County (named in the Statute) to be sufficiently repaired; That from that adjudication, and payment of such money as shall be borrowed, the Toll of that County is to cease and determine.

2. For what the Surveyors are to do.

What the Surveyors have to do herein.

The Surveyors so chosen, as before, by the Justices, are to do as followeth:

1. They are within a Week of this Notice, having no lawful impediment to be allowed by the Justices that do choose them, are to meet in each of these Counties Respectively, in some convenient place of each County appointed by the Justices at their Quarter Sessions, to view and surveigh the same High-ways, and to consider what Reparations shall be needful.

To meet to consult together,

To provide Materials.

2. These Surveyors are in each County to provide Stones, Gravel, and other Materials and Necessaries for the Work.

To make a Collector of Toll, or other Officers.

3. Any three of these Surveyors of each County, with the approbation of two or more Justices of the County living near some together, to the Places and Highway named, may appoint one or more Superiours for Receivours or Collectors of Toll, to receive Toll or Custom of all Travellers &c. upon the same wayes, or make any other Officer as they shall find necessary

ry

ry to carry on the Work. For which a moderate allowance is to be given.

To require
Ploughs and
Labourers, and
order the Work.

4. Any three or more of these Surveyors, they are to appoint and require all the Inhabitants within three miles of the places named, and in the same County that are by the Law chargeable to find Wayn, Team, or Cart, for the amending of the High-ways, and other person chargeable in person to labour therein for three dayes in a week out of Seed, Hay, and Corn-Harvest time, to come or send their Wayns, Carts, or Teams, provided, as by Law they ought to do for repair of the High-ways. And being come, to appoint them their Work; and for what they do, they are to pay them after the rate of the Country; and if any difference be, apply themselves to two of the Justices to end it.

To pay them
for their Work.

5. Any three, or more of these Officers, for the repair of these wayes, may appoint to do, take, and carry away so, as much as they shall think needful, of Gravel, Chalk, Sand, or Stones out of the Waste or Common of any Neighbouring Parish or Place, near adjoyning to the place of decay (without paying any thing for it, or (if it be not there to be had) in any mans several Oround (not in a House, Garden, Orchard, or Park stored with Dear) in a Parish chargeable to the Repair of the High-ways, giving only satisfaction to the Owner of the Ground for the Damage he hath thereby, as the Justices at any of their Quarter Sessions shall set down, if any difference be. But they must take care, that where they shall so do, they do then with all speed convenient fill up and level the same, or

To take Materials where it
is to be had.

else rayl them about, that they be not dangerous to Man or Beast.

To make their Account, and pay over the money.

6. They are alwayes at the Quarter Sessions next after Easter, there give in an account to the Justices under their Hands of all the Money received from the Collector, and of all laid about the High-ways, or in execution of their Offices. And if they have any money in their Hands, they are to pay it in to the Hands, to the Surveyors for the next year, or the Treasurer or Receiver by them appointed. And then they are to have allowance for their pains: and if they shall not account and pay in the Money (as before) they be at any Quarter Sessions be committed to Pri. on, till they do so account and pay in their Money.

To levy Money on a Rate.

7. If the Justices at their Sessions make any Rate for repair of these High-ways, these Surveyors are to collect and to receive it. And where any person doth refuse the payment of the Money rated, they may distrain for it, and sell the Distresse, rendring the overplus to the Owner.

To engage the Toll to borrow money to repair the High-waye.

8. These Surveyors may also with consent of the Justices in their Quarter-Sessions, to borrow money for repair of the High-ways, engage the Profits arising by the Toll, in and for their own County by Indenture under their Hands and Seals, by Grant to others, for any time under 9 years, for security of repayment of the money borrowed with Interest, and therewith repay the Money borrowed.

9. They, or their Treasurers are to receive all the Fines and Forfeitures, and them to employ towards the Repair of the High-ways, named in the Statute.

For

For what the Collectors Toll is to do.

I. The Collector of Toll duly chosen (as What the Receiver or Collector of Toll is to do, to take Toll, The Toller is to take, named in the Act, after the proportion following, viz.

For a Horse ——— i d.
 For a Coach ——— vi d.
 For a Waggon ——— xii d.
 For a Cart ——— viii d.

But no man that hath occasion to pass, and doth return the same way with Horse, Coach, Waggon, or other Carriage, or with Cattle, is to pay Toll a second time.

For every 20 Sheep or Lambs, a half-penny And so proportionably for greater Numbers.

For every 20 Oxen, or Neat-Cattle, — v d. And so for every greater or lesser number proportionably.

For every Score of Hogs ——— ii d. And so for any greater or lesser number under 5. And this, after these Rates, the Collector of Toll is to receive.

And this to be paid and received, at Wadesmill, for the County of Hertford: At Carlton, within the County of Cambridge, for the County of Cambridge. And at Stilton, within the County of Huntingdon, for the County of Huntingdon. But all persons passing through these places, that

An Act concerning High-ways.

come immediately and primarily to, and from the several Parishes of *Stranden, Thundridge, Ware, and Ben ges*, adjacent the same *Wades-Mill*, and to, and from great *Papworth*, little *Papworth*, little *Papworth* and *Elstry*, adjacent to *Caxton*, and to and from *Taxley, Washingly, Glatton, Cunington, Waddon*, and *Stibbington*, adjacent to *Stilton*, may carry any quantities of Stones, Sand, Lime, or Gravel, Dung, Mould, and Compass, of any kind whatsoever, Brick, Chalk, or Wood: And that they, and all Carts with Hay, Corn in the Straw, at Hay-time, or Harvest, Ploughs, Harrows, and Implements of Husbandry, and other things whatsoever, imployed in the husbanding, stocking, and manuring of the Lands, the said Parishes shall pass to and fro through the said places, where such Toll is to be received, or paying any thing for Toll. Nor is any Souldier that passeth in his march through either of these places to pay any Toll.

To distrain
such as will not
pay.

2. If any refuse or neglect to pay to the Collector this Toll upon Demand; the Collector may distrain the Horse, Cart, Coach, Waggon, Oxen, or other Cattle named, or any of them, and detain them until the Toll and his Demand by the Distress be paid.

To give an Ac-
count, and pay
over the mo-
ney.

3. They are from time to time to render an Account of all the Money they so received, and pay in the money by them received to the Surveyors, or any 3. or more of them, when by them required so to do: otherwise they may be committed to Prison by the Justices, at any Quarter-Sessions, till they do it.

To distrain for
Money rated.

4. If any Rate be made by the Justices in their Sessions to raise money, for the amending
of

of the High-ways, these Receivers or Collectors, as well as the Surveyors may distrain for it, and sell the Distress, rendering the over-plus to the Owners.

5. The Receivers or Collectors of the Toll that shall be in this Office at the end of the eleven years, if they upon their Account shall then have any of the same remaining in their hands, are to bring in the same money to the Justices of Peace at their next Quarter-Sessions, under pain to forfeit double so much, to be recovered by Distress and Sale of Goods.

4. For that which all others are to do.

1. All persons that have Wains, Carts, or Teams that by Law are to come with them to the High-ways, and that are chargeable to work there themselves, and that live within 3. miles of the place where the Work is to be done from the parties dwelling, that is by himself or his Wayn, &c. to do the work upon convenient notice by the Surveyors to come to the place they appoint, and there to do the work they appoint. But this may not be at Seed, Hay, or Corn Harvest time; nor may it be above 3. dayes in one week. And for this they are to be paid after the Rate of the Countrey. And if any difference be between them and the Surveyors, the Justices must decide it.

2. They are to suffer the Officers to take materials for the work, taking the same according to the power before given to them.

3. Every person who shall travail with horse, Coach, Cart, or Waggon, or shall lead, or drive any Oxen, sheep, horses, or other Cattle, as before are to pay to the Receiver of Toll the

What all other persons are to do herein.

To come to High-Way works with Ploughes, &c. When required.

To give way to the taking of Gravel, &c. in their grounds.

To pay Toll.

An Act concerning High-Wayes.

Sums before set down, at the places appoynted for the receipt thereof. And if he refuse to do it, he may be distrained by the Collector for it.

All the Fines and Forfeitures upon this Law are to be paid into, and received by the Surveyors or their Treasurers.

If any Suit be brought against any one for any thing done in pursuance of this Act, it must be in the County where the cause of Action doth arise: And the Defendant may plead the general Issue, and give the Act and special matter in evidence. And if the Jury find for the Defendant, or upon Demurrer Judgment be given for the Defendant: Or if the Plaintiff discontinue his Action, or be Non-suit after the Defendant hath appeared, the Defendant shall recover double Costs, and have like remedy for the same, as in other Cases.

Every one is to be chargeable towards the Repair of the High-wayes, as formerly they were chargeable, this Act notwithstanding.

CHAP.

CHAP. LIV.

Anno 15 Car. 2. Regis.

An Act for the Punishment of unlawful Cutting, or stealing, or spying of Wood, and Under-Wood, and destroyers of young Timber-Trees.

THE Act of 43 Eliz. Intituled, *An Act to avoid and prevent divers Misdemeanours in idle and land persons*, is mentioned. And thereunto it is added as followeth:

1. That every Constable, Head-borough, or other person in every County, Ciry, Town Corporate, or other place where they shall be Officers or Inhabitanis, shall have power to apprehend or cause to be apprehended such as they suspect for having, or carrying, or any wayes conveying any burthen or bundles of any kind of Wood, Under-Wood, Poles, or young Trees, or Bark, or Balt of any Trees, or any Gates, Stiles, Posts, Pales, Rails, or Hedg-Wood, Broom or Furze.

The power of all Officers, and others hereof.

2. Any Officer by Warrant under the hand and seal of one Justice, may enter into the houses, out-houses, yards, gardens, or other places belonging to the houses of such persons as they shall suspect to have any such Woods, Under-Woods, &c. And wheresoever they shall find any such, to apprehend or cause to be apprehended the person suspected for the cutting and taking of the same. And those also in whose houses

The power of an Inferiour Officer.

The power of
a Justice of
Peace herein
cut of Sessions.

ses or other places belonging to them any such Wood, Under-Wood, &c. shall be found to carry before one Justice of Peace of the County, City, &c. And if he shall not then and there give a good Account how he came by such Wood, Under-Wood, &c. by the consent of the Owner, such as to satisfy the Justice, or shall not within a convenient time limited by the Justice, produce the party of whom he bought the same Wood, Under-Wood, &c. or some other credible Winesse to depose upon Oath such Sale of the said Wood, Under-Wood, &c. (which the Justice may administer.) That then the said person shall be deemed convict of the said offence of cutting and spoiling of the same Woods, Under-Woods, &c. within the meaning of the said Statute of 43 *Elix.* and be liable to the punishment therein contained, and to what is further appointed by this Act.

And the party so convict, shall for the first offence give to the Owner such satisfaction for his Damage, and within such a time as the Justice shall appoint, and over and above pay down presently to the use of the Overseers of the Poor of the place where the offence is committed, such a Sum not exceeding 10 s. as the Justice shall appoint. And if the offender shall not perform the Justice of Peace order herein to the Owner and Overseers of the Poor, then the Justice is to commit him to the House of Correction, for so long (not exceeding one month) as he shall think meet: Or to be whipt by the Constable or other Officer as the Justice shall judge most expedient. And if such person shall again offend in the like kind, and be convict

vict as before; That then he shall be sent to the House of Correction for one month, and be there held to hard labour. And if he shall so offend the third time, and be convicted of his offence as before; That then he shall be taken, adjudged, and deemed as an Incorrigible Rogue.

3. That if any buy any barthens of Wood, or any Poles or Sicks of Wood, Under-Wood, &c. [the thing before named] which may be justly suspected to have been stolen, or unlawfully come by; any Justice, Mayor, Bayliffs, or head-Officer within his Jurisdiction, may upon complaint thereof made to him, examine the matter of Oath which they shall administer. And if he find that the same was bought of one that may be justly suspected to have stolen, or unlawfully come by the same; he may then order the party that bought the same, to pay treble the value of the same to the party from whom the same was stolne or unlawfully taken. And in default of present payment thereof, issue forth his Warrant to levy the same by Distrets and Sale of the Offendor's goods, rendering the overplus to the party. And for lack of such Distrets, to commit the party to the Gaol, at his own charge there to remain one moneth without Bail.

The power of a Justice of Peace herein out of Sessions.

4. No man is to be punished by this Law for an offence that hath been punished for the same offence by a former Law. Nor is any man to be questioned for any offence within this Law, unless he be questioned for the same within six weeks after the offence committed.

It

Observation,

It is to be observed upon this Statute, 1. That power is given to an Inferiour Officer by Warrant under the hand and seal of a Justice, to search the houses, &c. of persons suspected, to steal Wood, Under-Wood, &c. and to apprehend and bring them before him the persons so suspected; as also those in whose house or other place such Wood, Under-Wood, &c. shall be found. But no power is given to the Justice to make such a Warrant in expresse Terms. And yet it may be implied; for if a Justice shall make such a Warrant, and the Inferiour Officer execute it, the Execution seems to be unquestionable, as that which is back'd and warranted by an Act of Parliament. It should seem then, that the Warrant is lawful. But it is good to advise,

2. It is said for the second offence, and conviction thereof, the offender shall be sent to the House of Correction, &c. But it is not said (as it is in the first Clause), that the Justice of Peace shall send him thither. And yet it seems to be implied, and so to be taken. But it is good to be advised in it.

FINIS.





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Containing the Names of the Ships, and the Names of the Captains, who have been employed in the Service of the East India Company, from the Year 1700 to 1750.

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